

## CHAPTER 1052-A

### CHILD CARE SERVICES

#### §3731. Definitions

As used in this chapter, unless the context otherwise indicates or unless they are inconsistent with federal law, the following terms have the following meanings. [PL 1993, c. 158, §2 (NEW).]

**1. Child care.** "Child care" means a regular service of care and education provided for compensation for any part of a day less than 24 hours to a child or children under 16 years of age whose parents work outside the home, attend an educational program or are otherwise unable to care for their children. "Child care" also means administrative functions related to the delivery of child care services, including, but not limited to, contract management, voucher administration, licensing, training, technical assistance and referral. [PL 2011, c. 388, §4 (AMD).]

**2. Council.** "Council" means the Maine Children's Cabinet Early Childhood Advisory Council established pursuant to Title 5, section 12004-J, subsection 18. [PL 2019, c. 450, §15 (AMD).]

**2-A. Division.** "Division" means the early childhood division of the Department of Health and Human Services, Office of Child and Family Services. [PL 2011, c. 388, §5 (NEW).]

**3. Office.** "Office" means the Office of Child Care and Head Start. [PL 1995, c. 502, Pt. D, §7 (AMD).]

**4. Region.** "Region" means a service delivery region established by the commissioner. [PL 2007, c. 539, Pt. N, §32 (AMD).]

#### SECTION HISTORY

PL 1993, c. 158, §2 (NEW). PL 1995, c. 502, §D7 (AMD). PL 2007, c. 539, Pt. N, §32 (AMD). PL 2011, c. 388, §§4, 5 (AMD). PL 2019, c. 450, §15 (AMD).

#### §3731-A. Maine Child Care Affordability Program

The Maine Child Care Affordability Program is established in the department to provide child care subsidies under this chapter in accordance with the principles described under section 3732 to support the high-quality child care needs of children and working families while also providing a living wage to early childhood educators. Eligibility for child care subsidies under the Maine Child Care Affordability Program must be determined in accordance with this chapter and rules adopted pursuant to this chapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2023, c. 412, Pt. VVV, §1 (NEW).]

#### SECTION HISTORY

PL 2023, c. 412, Pt. VVV, §1 (NEW).

#### §3732. Principles of child care system

The department shall allocate resources available under this chapter in a manner that promotes the following principles. [PL 1993, c. 158, §2 (NEW).]

**1. Family self-sufficiency.** A stable source of child care is a critical ingredient to economic self-sufficiency. Child care policies and programs must facilitate a smooth transition into the work force for parents and a rich and stable environment for children.

[PL 1993, c. 158, §2 (NEW).]

**2. Investment in children.** Child care is a critical investment that affects a child's readiness to learn. High-quality child care programs recognize and implement good, early childhood practices, as articulated by Head Start, the National Association for the Education of Young Children and other early childhood organizations.

[PL 1993, c. 158, §2 (NEW).]

**3. Consumer orientation and education.** Child care policies and programs must be responsive to the changing needs of families and educate families about available options, identifying quality programs and selecting appropriate care.

[PL 1993, c. 158, §2 (NEW).]

**4. Accessibility.** High-quality child care must be available to any family seeking care regardless of where the family lives or the special needs of the child. A centralized system in local communities must be available to facilitate parents' access to child care.

[PL 2011, c. 388, §6 (AMD).]

**5. Affordability.** High-quality child care must be available to families who receive child care subsidies available in the State on a sliding scale fee basis, with families contributing based on ability to pay.

[PL 2011, c. 388, §7 (AMD).]

**6. Diversity.** It is the goal of the State to strive wherever possible to provide child care in an integrated setting, where children with various needs and of various income levels and cultures are cared for together.

[PL 1993, c. 158, §2 (NEW).]

**7. Efficient, coordinated administration.** Child care programs must be coordinated to ensure the most effective use of federal and state funds.

[PL 1993, c. 158, §2 (NEW).]

**8. Support for infrastructure.** State child care agencies and policies must support the orderly development of a high-quality child care system.

[PL 1993, c. 158, §2 (NEW).]

#### SECTION HISTORY

PL 1993, c. 158, §2 (NEW). PL 2011, c. 388, §§6, 7 (AMD).

#### §3733. Designated agency

To the extent permitted by federal law, the department shall coordinate and administer all available federal and state child care funds, including, but not limited to, those available under the United States Social Security Act; the federal Omnibus Budget Reconciliation Act of 1990, Section 5081; and the federal Child Care and Development Block Grant Act of 1990, as amended by the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 110 Stat. 2105.

[PL 1997, c. 530, Pt. A, §11 (AMD).]

#### SECTION HISTORY

PL 1993, c. 158, §2 (NEW). PL 1997, c. 530, §A11 (AMD).

#### §3734. Use of federal funds

The department shall seek the advice of the council when applying or reapplying for federal funds under this chapter and when submitting state plans, amendments to state plans or waivers for federal approval. Whenever the department makes these submissions to the Federal Government, it shall notify the joint standing committee of the Legislature having jurisdiction over human resource matters and the Executive Director of the Legislative Council. [PL 1993, c. 158, §2 (NEW).]

The following additional provisions apply to certain federal child care funds, as indicated. [PL 1993, c. 158, §2 (NEW).]

**1. Used to supplement state funds.** Federal child care funds must be used to supplement and may not replace existing state and local child care funds. [PL 1993, c. 158, §2 (NEW).]

**2. Block grant funds encumbered.** Within 6 months of receiving any payment under the federal Child Care and Development Fund, the department shall expend or encumber 100% of the payment. [PL 1997, c. 530, Pt. A, §12 (AMD).]

#### SECTION HISTORY

PL 1993, c. 158, §2 (NEW). PL 1997, c. 530, §A12 (AMD).

#### §3735. Child care for ASPIRE-TANF participants

The department shall ensure that all persons referred for participation in the State's ASPIRE-TANF program receive information regarding child care options from caseworkers who are knowledgeable about the range of child care subsidies available in this State and who can explain the relative advantages of each option. This may be done directly by the department or by the department's designee. [PL 1997, c. 530, Pt. A, §13 (AMD).]

#### SECTION HISTORY

PL 1993, c. 158, §2 (NEW). PL 1997, c. 530, §A13 (AMD).

#### §3736. Eligibility

**1. Single application form.** By October 1, 1993, the department shall develop a universal application for all publicly funded child care programs for applicants who are seeking child care as their primary service. By January 1, 1994, the department shall require all caseworkers and contractors to use the form to determine eligibility for those applicants. Applicants submitting applications to more than one caseworker or contractor may submit photocopies or facsimile copies. [PL 2011, c. 388, §8 (AMD).]

**2. Eligibility decision within 15 days; retroactive reimbursement.** The department shall determine eligibility for child care programs administered under this chapter within 15 days of receiving a completed application. If a contractor determines eligibility, the department shall require that the contractor determine eligibility within 15 days of receiving a completed application. The department shall provide retroactive reimbursement to a child care program that provided tuition assistance to an applicant during the application period. [PL 2023, c. 412, Pt. VVV, §2 (AMD).]

**3. Application; effective date.** If an applicant for child care programs administered under this chapter is determined eligible, child care assistance must be provided retroactively to the date of application. [PL 2015, c. 267, Pt. RRRR, §1 (NEW).]

**4. Changes in eligibility.** The department shall notify a provider of child care services provided under this chapter within 2 business days of when a recipient's eligibility changes. [PL 2023, c. 412, Pt. VVV, §3 (NEW).]

#### SECTION HISTORY

PL 1993, c. 158, §2 (NEW). PL 2011, c. 388, §8 (AMD). PL 2015, c. 267, Pt. RRRR, §1 (AMD). PL 2023, c. 412, Pt. VVV, §§2, 3 (AMD).

#### §3736-A. Head Start eligibility; contract requirements

**1. Eligibility.** A Head Start program service provider shall provide Head Start program services to a child up to 5 years of age who:

- A. Is at risk or whose family is at risk; and [PL 2023, c. 412, Pt. VVV, §4 (NEW).]
- B. Lives in a family with an income at or below 185% of the federal poverty level. [PL 2023, c. 412, Pt. VVV, §4 (NEW).]

For the purposes of this subsection, "at risk" means affected by homelessness, substance use disorder, sexual or physical abuse or a mental health condition that affects the emotional, mental or physical health of a child. "At risk" also means being or having been involved in the child welfare system or having a disability.

[PL 2023, c. 412, Pt. VVV, §4 (NEW).]

**2. Contract requirements.** The Department of Health and Human Services shall specify by contract how the funding is to be apportioned among Head Start grantees based on need. Head Start grantees shall report annually to the department on use of the funding.

[PL 2023, c. 412, Pt. VVV, §4 (NEW).]

#### SECTION HISTORY

PL 2023, c. 412, Pt. VVV, §4 (NEW).

#### §3737. Payments to providers

**1. No payments to recipients.** The department may not make cash payments to recipients for child care services provided under this chapter, except when those payments represent reimbursement for services already provided to the recipient.

[PL 1993, c. 158, §2 (NEW).]

**2. Maintenance of existing options.** The department shall ensure that child care funds are distributed through a range of mechanisms, including, but not limited to, vouchers to recipients and contracts to providers.

[PL 1993, c. 158, §2 (NEW).]

**3. Quality differential.** To the extent permitted by federal law, the department shall pay a differential rate for child care services that meet or that make substantial progress toward meeting nationally recognized quality standards, such as those standards required by the Head Start program or required for accreditation by the National Association for the Education of Young Children, and shall do so from the Child Care Development Fund 25% Quality Set-aside funds or by other acceptable federal practices. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. The rules must establish a child care quality rating system with a minimum of 3 steps and must provide for graduated quality differential rates for steps that demonstrate that a child care provider meets or makes substantial progress toward meeting nationally recognized quality standards.

A. [PL 2013, c. 559, §1 (RP).]

B. [PL 2013, c. 559, §1 (RP).]

Nothing in this subsection requires the department to pay a quality differential rate for child care services provided through the Temporary Assistance for Needy Families block grant.

[PL 2021, c. 138, §1 (AMD).]

**4. Child care rates.** The department shall establish payment rates for child care services that are up to the 75th percentile of local market rates for the various categories of child care services. The payment rates for child care services for children with special needs may be higher than the 75th percentile of local market rates.

[PL 2017, c. 412, §1 (NEW).]

**5. Payments to providers within 15 days.** The department shall reimburse a provider of child care services provided under this chapter within 15 days after receiving a complete and accurate invoice if the provider has met all the required state procurement and payment requirements. [PL 2023, c. 412, Pt. VVV, §5 (NEW).]

#### SECTION HISTORY

PL 1993, c. 158, §2 (NEW). PL 2001, c. 394, §1 (AMD). PL 2013, c. 559, §1 (AMD). RR 2015, c. 1, §21 (COR). PL 2017, c. 412, §1 (AMD). PL 2021, c. 138, §1 (AMD). PL 2023, c. 412, Pt. VVV, §5 (AMD).

#### **§3737-A. Early childhood educator workforce salary supplements**

The department shall develop and implement a system to provide salary supplements to child care providers and early childhood educators who provide direct services to children in a child care facility licensed under section 8301-A, subsection 2 or who are family child care providers licensed under section 8301-A, subsection 3. Any salary supplement funding provided by the department under this section to a child care facility or family child care provider must be paid by that child care facility or family child care provider in order to increase wages for any child care provider or early childhood educator who provides direct services to children. [PL 2021, c. 635, Pt. RR, §1 (NEW).]

Until June 30, 2023, a child care facility or family child care provider shall distribute salary supplements received under this section in the same amount to any child care provider or early childhood educator who provides direct services to children employed by the facility or provider. Beginning July 1, 2023, the department shall establish by rule and shall implement a tiered system for salary supplements under this section. The rules must provide, at a minimum, 3 tiers based on the education and experience levels of child care providers and early childhood educators. The 2nd tier must provide a salary supplement that is at least 50% greater than the first tier and the 3rd tier must provide a salary supplement that is at least 50% greater than the 2nd tier. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2021, c. 635, Pt. RR, §1 (NEW).]

#### SECTION HISTORY

PL 2021, c. 635, Pt. RR, §1 (NEW).

#### **§3738. Resource development centers**

**(REPEALED)**

#### SECTION HISTORY

PL 1993, c. 158, §2 (NEW). PL 1993, c. 490, §1 (AMD). MRSA T. 22 §3738 (RP).

#### **§3739. Child Care Advisory Council**

**(REPEALED)**

#### SECTION HISTORY

PL 1993, c. 158, §2 (NEW). RR 1995, c. 2, §42 (COR). PL 1995, c. 418, §A39 (AMD). PL 1995, c. 502, §D8 (AMD). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 1997, c. 530, §A14 (AMD). PL 2001, c. 179, §1 (AMD). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, §§B6,7 (REV). PL 2011, c. 388, §§9-14 (AMD). PL 2011, c. 657, Pt. AA, §63 (AMD). PL 2017, c. 407, Pt. A, §79 (AMD). PL 2019, c. 450, §16 (RP). PL 2019, c. 524, §16 (AMD). PL 2021, c. 293, Pt. A, §28 (AMD).

#### **§3740. Office of Child Care and Head Start**

**1. Establishment.** The Office of Child Care and Head Start is established within the Division of Purchased and Support Services.

[PL 1995, c. 502, Pt. D, §9 (AMD).]

**2. Powers and duties.** The office has the following powers and duties:

- A. Maintain an inventory of child care information; [PL 1993, c. 158, §2 (NEW).]
- B. Provide public education on becoming better consumers of child care; [PL 1993, c. 158, §2 (NEW).]
- C. Provide staffing assistance to the council; [PL 1993, c. 158, §2 (NEW).]
- D. Coordinate an ongoing review of all child care licensing rules; [PL 1993, c. 158, §2 (NEW).]
- E. Provide technical assistance to public and private sector employers, school systems and community groups concerning child care, flexible benefits and work schedules; [PL 1993, c. 158, §2 (NEW).]
- F. Coordinate the development of a training system for child care providers; [PL 1993, c. 158, §2 (NEW).]
- G. Develop incentives for employer involvement in child care; and [PL 1993, c. 158, §2 (NEW).]
- H. Promote cooperative relationships between public health organizations and child care programs. [PL 1993, c. 158, §2 (NEW).]

[PL 1993, c. 158, §2 (NEW).]

#### SECTION HISTORY

PL 1993, c. 158, §2 (NEW). PL 1995, c. 502, §D9 (AMD).

#### §3740-A. Report

The department shall evaluate child care subsidies provided under this chapter and, beginning January 15, 2024 and annually thereafter, submit a report of the evaluation with recommendations on increasing enrollment and reducing barriers to families receiving child care subsidies to the joint standing committee of the Legislature having jurisdiction over health and human services matters. The report must include: [PL 2023, c. 412, Pt. VVV, §6 (NEW).]

**1. Barriers.** The identification of access barriers:

- A. For children and families to know about and enroll in the Maine Child Care Affordability Program established under section 3731-A; and [PL 2023, c. 412, Pt. VVV, §6 (NEW).]
- B. For all child care programs to participate in the Maine Child Care Affordability Program established under section 3731-A; [PL 2023, c. 412, Pt. VVV, §6 (NEW).]

[PL 2023, c. 412, Pt. VVV, §6 (NEW).]

**2. Feedback.** The ways in which the department has engaged with feedback from families and child care programs through multiple engagement tools, such as surveys, listening sessions and focus groups; and

[PL 2023, c. 412, Pt. VVV, §6 (NEW).]

**3. Reimbursement.** The instances and frequency of and reasons for delayed or late reimbursement payments from the Office of Child and Family Services to participating child care programs and plans to remedy delayed or late reimbursement payments.

[PL 2023, c. 412, Pt. VVV, §6 (NEW).]

#### SECTION HISTORY

PL 2023, c. 412, Pt. VVV, §6 (NEW).

#### §3740-B. High-quality child care costs estimator tool

The department shall create and maintain an estimator tool in accordance with this section to calculate the actual cost of quality child care. [PL 2023, c. 412, Pt. VVV, §7 (NEW).]

**1. Considerations.** In developing the costs estimator tool, the department shall consider:

A. Including a living wage compensation scale for early childhood educators; [PL 2023, c. 412, Pt. VVV, §7 (NEW).]

B. Including employee salaries and benefits; [PL 2023, c. 412, Pt. VVV, §7 (NEW).]

C. Including facility costs; [PL 2023, c. 412, Pt. VVV, §7 (NEW).]

D. Including costs associated with compliance with statutory and rule requirements, including the child care quality rating system under section 3737, subsection 3 and specific costs associated with each step of the rating system and any quality indicators used; [PL 2023, c. 412, Pt. VVV, §7 (NEW).]

E. Differentiating rates by child age and geographic region; and [PL 2023, c. 412, Pt. VVV, §7 (NEW).]

F. Using data and research from available studies and reports. [PL 2023, c. 412, Pt. VVV, §7 (NEW).]

[PL 2023, c. 412, Pt. VVV, §7 (NEW).]

**2. Accessibility.** The estimator tool must be publicly accessible. The department's process for making changes to the tool must be transparent to the public.

[PL 2023, c. 412, Pt. VVV, §7 (NEW).]

#### SECTION HISTORY

PL 2023, c. 412, Pt. VVV, §7 (NEW).

#### §3740-C. Affordable child care implementation plan

The department, in consultation with the Office of Child and Family Services, the Children's Cabinet, established under Title 5, section 19131, subsection 1, and the council, shall develop, in accordance with this section, a phased implementation plan with benchmarks for limiting child care costs by 2030 to no more than 7% of a family's income for a family earning up to 250% of the median family income in the State. The implementation plan must focus on children and families that are the furthest from opportunity, as determined by family income, must include recommended targeted supports for providers serving children who are underserved and must emphasize greater racial equity. The implementation plan must include: [PL 2023, c. 412, Pt. VVV, §8 (NEW).]

**1. Phased approach.** A phased approach with benchmarks that gradually increases eligibility based on income until 2030;

[PL 2023, c. 412, Pt. VVV, §8 (NEW).]

**2. Copayments.** A graduated system of copayments to eliminate the benefit cliff effect as defined in Title 26, section 3801, subsection 1 for families and to limit the amount a family pays for child care;

[PL 2023, c. 412, Pt. VVV, §8 (NEW).]

**3. Cost modeling.** Payment rates informed by a cost modeling tool that includes providing a living wage to licensed child care providers;

[PL 2023, c. 412, Pt. VVV, §8 (NEW).]

**4. Expanded access.** Expanded access to a child care subsidy by developing a model to enable the department to provide contracted slots to programs that service a family using the child care subsidy; and

[PL 2023, c. 412, Pt. VVV, §8 (NEW).]

**5. Strategy.** A strategy, a budget, revenue recommendations and a timeline to achieve the goals of this section.

[PL 2023, c. 412, Pt. VVV, §8 (NEW).]

#### SECTION HISTORY

PL 2023, c. 412, Pt. VVV, §8 (NEW).

#### §3740-D. Early childhood integrated data system

This section governs data collection and reporting relating to an early childhood integrated data system. [PL 2023, c. 412, Pt. VVV, §9 (NEW).]

**1. Data collection.** To the extent permissible under state and federal laws governing early childhood programs and privacy and confidentiality, the department shall develop and maintain an early childhood integrated data system to integrate data from early childhood programs across state agencies, including, but not limited to, the department, the Department of Education and the Department of Labor. The early childhood integrated data system must be designed to inform decisions about early childhood programs and policies that will promote access, quality and a strong workforce to support children up to 5 years of age and their families.

[PL 2023, c. 412, Pt. VVV, §9 (NEW).]

**2. Report.** No later than January 15, 2024, and biennially thereafter, the commissioner shall submit a report to the joint standing committee of the Legislature having jurisdiction over early childhood programs that includes an update on the development and implementation of an early childhood integrated data system.

[PL 2023, c. 412, Pt. VVV, §9 (NEW).]

#### SECTION HISTORY

PL 2023, c. 412, Pt. VVV, §9 (NEW).

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