

**PUBLIC HEARING NOTICE
OHIO DEPARTMENT OF JOB AND FAMILY SERVICES**

DATE: August 26, 2019
TIME: 10:00 A.M.
LOCATION: Room 3110B, Rhodes State Office Tower
30 East Broad St., Columbus, OH 43215

Pursuant to sections 5104.30, 5104.34, 5104.38, 5104.39 and Chapter 119 of the Revised Code, the director of the Ohio Department of Job and Family Services (ODJFS) gives notice of the department's intent to consider the amendment, rescission and adoption of the rules as identified below and of a public hearing thereon.

Background:

The Ohio Department of Job and Family Services (ODJFS) is proposing the following draft rules contained in Chapter 5101:2-16 of the Ohio Administrative Code (OAC) due to the five-year review. The rules have been re-numbered consecutively and topics grouped for clarity purposes. These rules will be effective in September 2019.

Proposed Rescinded Rules:

5101:2-16-07 "County agency responsibilities for the administration of publicly funded child care" is proposed to be rescinded and replaced with new rule, 5101:2-16-08 of the OAC.

5101:2-16-30 "Eligibility requirements for receipt of publicly funded child care benefits" is proposed to be rescinded and replaced with new rules, 5101:2-16-02 and 5101:2-16-06 of the OAC.

5101:2-16-34 "Income eligibility requirements for publicly funded child care benefits" is proposed to be rescinded and replaced with new rule, 5101:2-16-03 of the OAC.

5101:2-16-35 "County agency responsibilities for determining eligibility for publicly funded child care benefits" is proposed to be rescinded and replaced with new rule, 5101:2-16-08 of the OAC.

5101:2-16-35.1 "Caretaker eligibility requirements to qualify for publicly funded child care benefits" is proposed to be rescinded and replaced with new rules, 5101:2-16-04 and 5101:2-16-06 of the OAC.

5101:2-16-36 "County agency responsibility for annual re-determination of eligibility for publicly funded child care" is proposed to be rescinded and replaced with new rule, 5101:2-16-08 of the OAC.

5101:2-16-37 "Caretaker requirements for annual re-determination of eligibility for publicly funded child care" is proposed to be rescinded and replaced with new rule, 5101:2-16-02 of the OAC.

5101:2-16-39 "Copayment for publicly funded child care benefits" is proposed to be rescinded and replaced with new rule, 5101:2-16-05 of the OAC.

Appendix A "Copayment Calculation Table" is replaced with appendix A to rule 5101:2-16-05 of the OAC.

5101:2-16-41 "Payment rates and procedures for providers of publicly funded child care" is proposed to be rescinded and replaced with new rule, 5101:2-16-10 of the OAC.

Appendix A "Payment Rates for Providers of Publicly Funded Child Care" is being replaced with Appendix A to rule 5101:2-16-10 of the OAC.

5101:2-16-42 "Payment rates for children with special needs" is proposed to be rescinded and replaced with new rule, 5101:2-16-09 of the OAC.

5101:2-16-43 "Approval for Ohio department of education (ODE) programs to provide publicly funded child care" is proposed to be rescinded and replaced with new rule, 5101:2-16-09 of the OAC.

5101:2-16-44 "Provider agreement for payment of publicly funded child care" is proposed to be rescinded and replaced with new rule, 5101:2-16-09 of OAC.

5101:2-16-70 "Caretaker improper payments or misuse of publicly funded child care" is proposed to be rescinded and replaced with new rule, 5101:2-16-07 of the OAC.

5101:2-16-71 "Provider improper payments or misuse of publicly funded child care" is proposed to be rescinded and replaced with new rule, 5101:2-16-11 of the OAC.

5101:2-16-72 "Publicly funded child care program integrity review" is proposed to be rescinded and replaced with new rule, 5101:2-16-12 of the OAC.

Proposed Amended Rule:

5101:2-16-01 "Definitions for Eligibility for Publicly Funded Child Care Benefits" proposed for amendment with the following changes:

- Amended the definition for "Eligible Provider" to reference rule 5101:2-16-09 of the OAC.
- Added the McKinney-Vento definition for "Homeless children and youth" as required by the Child Care and Development Block Grant Act of 2014.
- Amended the definition of "School Not in Session" to add "including a delayed start time or an early dismissal time."

Proposed New Rules:

5101:2-16-02 "Application and Qualification Process for Receipt of Publicly Funded Child Care Benefits" replaces in part rules 5101:2-16-30, 5101:2-16-35.1, 5101:2-16-36 and 5101:2-16-37 of the OAC and outlines the application process and qualification requirements for receipt of publicly funded child care (PFCC) benefits. The following changes were made:

- Combined the caretaker application process and eligibility requirements into one rule to improve clarity and organization of the chapter.

- Clarified that a valid PFCC application must include the applicant's name, address and signature.
- Clarified that an application is not "received" until it includes the applicant's name, address and signature.
- Clarified that families with no reported income must provide a statement indicating how the family is meeting basic living expenses, pursuant to 5101:2-16-03 of the OAC.
- Clarified when the qualifying activity section of the application is considered complete and when verification for activities and/or verification of being unable to care for a child are required.
- Clarified the requirements for caretakers and counties when indicating a child in need of care has special needs.
- Clarified "homeless child care" to specify eligibility requirements.
- Added that if a homeless caretaker does not have a qualifying activity, a full-time authorization may be created for each child in need of care.
- Removed the requirement that homeless child care eligibility is limited to once in a twelve-month period.
- Clarified that a caretaker must fill out a redetermination application when the Head Start program year extends beyond the current eligibility period.
- Clarified that eligibility may include applicants as well as recipients of Ohio Works First.

Appendix A "Qualifying Activities for the Publicly Funded Child Care Program" is a new appendix that lists the approved qualifying activities for caretakers in the PFCC program and how to document them.

Appendix B "Verification of Citizenship for Children in the Publicly Funded Child Care Program" is a new appendix that lists the verification requirements to document U.S. citizenship of children receiving PFCC services.

5101:2-16-03 "Income Eligibility Requirements for Publicly Funded Child Care Benefits" replaces rule 5101:2-16-34 of the OAC and outlines the income eligibility requirements for the PFCC program. The following changes were made:

- Changed to the question and answer format.
- Added the requirement that a person on unpaid leave from employment must provide written verification documenting how they are meeting basic living expenses, to align with the requirement for others with no reported income.
- Clarified how gross self-employment income is determined.
- Clarified "gross self-employment expenses" and added a list of expenses that are not allowable deductions.
- Clarified when cents are dropped in income calculations.

5101:2-16-04 "Caretaker Responsibilities to Maintain Eligibility in the Publicly Funded Child Care Program" replaces in part rule 5101:2-16-35.1 of the OAC and

outlines the caretaker responsibilities to remain eligible for PFCC once they are in the program. The following changes were made:

- Changed to the question and answer format.
- Added the requirement that a caretaker shall review attendance changes made by a provider in the automated system and approve appropriate changes.
- Clarified caretaker requirements for copayments and payment agreements.
- Added the requirement that a caretaker must notify the county agency when a preschool child begins attending elementary school and when a child stops attending a child care program.
- Clarified caretaker reporting requirements regarding child care programs, including when a child stops attending a program or wishes to switch programs.
- Clarified caretaker reporting requirements when there are changes in the number of hours needed for care.
- Clarified caretaker requirements around program integrity review requests.

5101:2-16-05 "Copayment for Publicly Funded Child Care Benefits" replaces rule 5101:2-16-39 of the OAC and outlines the copayment requirements for PFCC benefits. The following changes were made:

- Clarified that families may be assigned weekly copayments based on income level.
- Clarified that families pay copayments directly to providers.
- Clarified that copayment due date are established via written agreements between families and providers.
- Clarified when copayment amounts may be reduced or increased.
- Removed the requirement that a family co-payment amount may increase if a change occurs within the first thirty days of eligibility.

Appendix A "Copayment Calculation Table" replaces appendix A to rescinded rule 5101:2-16-39 of the OAC and lists the copayment multipliers used to determine copayment amounts based on income level.

5101:2-16-06 "Authorizations for Publicly Funded Child Care Services" replaces in part rules 5101:2-16-30 and 5101:2-16-35.1 of the OAC and clarifies what child care authorizations are and how they are used. The following changes were made:

- Grouped all policies and procedures on child care authorizations into one new rule.
- Clarified that the application received date is the date the county receives a valid application pursuant to rule 5101:2-16-02 of the OAC.
- Added wording to clarify that authorizations are per child and authorize payment to a provider for a specific number of hours of care.
- Clarified child care categories of authorization and how they are determined.

- Removed the requirement that an authorization not utilized for thirty-one days shall be ended.
- Added that child care shall not exceed forty-eight consecutive hours for each child.

5101:2-16-07 "Caretaker Improper Payments or Misuse of Publicly Funded Child Care Benefits" replaces rule 5101:2-16-70 of the OAC and defines and outlines procedures for caretaker improper payments or misuse of PFCC. The following change was made:

- Clarified the definition of a child care improper payment.

5101:2-16-08 " County agency responsibilities for the administration and determination of eligibility for publicly funded child care" replaces rules 5101:2-16-07, 5101:2-16-35 and 5101:2-16-36 of the OAC and outlines the requirements for county agencies to administer the PFCC program. The following changes were made:

- The county agency responsibilities were combined from several rules into one.
- The rule was changed to the question and answer format.
- Clarified that the application received date is the date the county receives a valid application pursuant to 5101:2-16-02 of the OAC.
- Clarified that an initial application may be denied if the caretaker owes an overpayment from a previous eligibility period, unless the caretaker enters into a payment agreement with the Ohio department of job and family services or the county agency to repay the overpayment.
- Clarified that eligibility can only be terminated if the family does not qualify for continuing eligibility pursuant to rule 5101:2-16-02 of the OAC.
- Removed the requirement that child care may be terminated if the caretaker does not use child care services for a period of thirty-one consecutive days.
- Added the requirement that eligibility may not be terminated for non-utilization of benefits.

5101:2-16-09 "Provider responsibilities for publicly funded child care" replaces rules 5101:2-16-42, 5101:2-16-43, and 5101:2-16-44 of the OAC and outlines the requirements for eligible providers to sign a provider agreement with ODJFS to provide PFCC services. The following changes were made:

- Grouped all requirements for providers into one new rule and put in question and answer format.
- Created a definition of who is eligible to sign a provider agreement.
- Added the requirement for a provider to have a written and signed copy agreement with the caretaker.
- Clarified how a provider may receive enhanced payments for caring for a child with special needs.

5101:2-16-10 "Payment Rates and Procedures for Providers of Publicly

Funded Child Care Services" replaces rule 5101:2-16-41 of the OAC and sets forth the payment rates and procedures for providers of PFCC services. The following changes were made:

- Changed to the question and answer format.
- Clarified how rates for providers are established.
- Clarified that categories of authorization are based on the total number of weekly child care hours approved for PFCC.
- Clarified that payment is made based on the total number of child care hours provided in a week, not to exceed the child's category of authorization.
- Clarified how providers are compensated for caring for children with special needs.
- Added requirements for ODJFS payment of registration fees for children in care.

Appendix A "Payment rates for providers of publicly funded child care" replaces Appendix A of rescinded rule 5101:2-16-41 of the OAC and has been updated to reflect new provider categories and rates.

5101:2-16-11 "Provider Improper Payments or Misuse of Publicly Funded Child Care Benefits" replaces rescinded rule 5101:2-16-71 of the OAC and defines a provider improper payment, misuse and fraud and outlines the process for recoupment of funds. The following changes were made:

- Clarified the procedure when a provider improper payment is the result of a county error.
- Clarified repayment procedures for improper payments or misuse of PFCC funds.

5101:2-16-12 "Publicly Funded Child Care Program Integrity Review" replaces rescinded rule 5101:2-16-72 of the OAC and outlines the requirements to participate in record reviews conducted by ODJFS as part of the program integrity process. No other changes were made to this rule.

Proposed Amended Forms:

JFS 01126 "Request for Reinstatement of Child Care Benefits" (rev. 9/2019) is being proposed for revision to change "County Department of Job and Family Services" to "county agency" throughout the form.

JFS 01151 "County Notice of Child Care Benefit Repayment Requirements for Caretakers" (rev. 9/2019) is being proposed for revision to change "County Department of Job and Family Services" to "county agency" throughout the form, and to remove an inactive web address for the Ohio State Legal Association.

JFS 01231 "Request for Payment Rate for Special Needs Child Care" (rev. 9/2019) is being proposed for revision to update changes in required information and changes regarding the submission of the form and supporting documentation. The following changes were made:

- Added a section for caretaker information regarding the special needs of the child.
- Added a signature line for the caretaker.
- Added specific questions to the provider about how the child care program has increased costs to accommodate the child with special needs.
- Updated the submission process to require the form and supporting documentation be sent to the new special needs child care e-mail address.

A copy of the proposed rules is available, without charge, to any person affected by the rules at the address listed below. The rules are also available on the internet at <http://www.registerofohio.state.oh.us/>. A public hearing on the proposed rules will be held at the date, time, and location listed at the top of this notice. Either written or oral testimony will be taken at the public hearing. Additionally, written comments submitted or postmarked no later than the date of the public hearing will be treated as testimony.

Requests for a copy of the proposed rules or comments on the rules should be submitted by mail to the Ohio Department of Job and Family Services, Office of Legal and Acquisition Services, 30 East Broad Street, 31st Floor, Columbus, Ohio 43215-3414, by fax at (614) 752-8298, or by e-mail at rules@jfs.ohio.gov.