

# Transmittal Form

Volume:  Issue:  Publication date:  Number of pages:  (ALD Use Only) Sequence No.

**Issuing agency name and address:**

**Agency DFA code:**

Children, Youth and Families Department

690

**Contact person's name:**

**Phone number:**

**E-mail address:**

Debra Gonzales

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**Type of rule action:**

**(ALD Use Only)**

**Most recent filing date:**

New ☐ Amendment ☒ Repeal ☐ Emergency ☒ Renumber ☐

**Title number:**

**Title name:**

8

**SOCIAL SERVICES**

**Chapter number:**

**Chapter name:**

15

**CHILD CARE ASSISTANCE**

**Part number:****Part name:**

2

## Requirements for Child Care Assistance Programs for Clients and Child Care Providers

**Amendment description (If filing an amendment):**

Emergency - Amending three sections

**Amendment's NMAC citation (If filing an amendment):**

Sections 10, 13 and 17 of 8.15.2. NMAC

**Are there any materials incorporated by reference?**

Yes ☐ No ☐

**Please list attachments or Internet sites if applicable.**

**If materials are attached, has copyright permission been received?**

Yes ☐ No ☐ Public domain ☐

**Specific statutory or other authority authorizing rulemaking:**

Section 9-2A-7 NMSA 1978:

**Notice date(s):**

	N/A
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**Hearing date(s):**

	N/A
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**Rule adoption date:**

March 16, 2020

**Rule effective date:**

March 16, 2020

2020 MAR 16 PM 4: 09

**Concise Explanatory Statement For  
Rulemaking Adoption:****Findings required for rulemaking adoption:****Findings MUST include:**

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

These amendments are emergency rule amendments under NMSA 14-4-5.6 These are temporary rule amendments. Pursuant to 14-4-5.6 (E), these emergency amendments are not permanent. They will expire if no permanent rule is adopted within one hundred eighty days from the effective date of these emergency amendments.

These amendments are necessary for the reasons outlined below. On March 11, 2020, New Mexico Governor Michelle Lujan Grisham issued an executive order (E.O. 2020-004), declaring a state of public health emergency for the State of New Mexico in response to confirmed cases of COVID-19. On March 12, 2020, the Cabinet Secretary for the New Mexico Department of Health issued a Public Health Declaration to limit mass gatherings due to COVID-19.

Due to the COVID-19 outbreak and the resulting executive orders and declarations, there is an emergency need for these amendments. The time required to complete full rulemaking procedures would cause an imminent peril to public health, safety and welfare of children and families in New Mexico due to the need for continuity of child care services for impacted children and families. Moreover, it would cause an unanticipated loss of funding for an agency program, specifically funding for continuity of child care services. The topics addressed by the emergency amendments must be addressed in order to meet federal funding requirements.

For these reasons, these emergency rule amendments are filed, effective immediately, to amend 8.15.2 sections 10, 13 and 17.

Rule effective date: March 16, 2020

Statutory authority authorizing rule-making: Section 9-2A-7 NMSA 1978

**Issuing authority (If delegated, authority letter must be on file with ALD):****Name:**

Elizabeth Groginsky

Check if authority has been delegated

☒ XX**Title:**

Secretary

**Signature: (BLACK ink only)****Date signed:**

03-16-2020

2020 MAR 16 PM 4:09

This is an emergency amendment to 8.15.2 NMAC Sections 10, 13, and 17, effective March 16, 2020.

**8.15.2.10 APPLICATION PROCESS:**

A. Clients apply for child care assistance benefits by presenting the following documents to establish eligibility in person at the local child care office. Upon a need or request by the client, the department may approve a client to submit their initial application by fax, email, or mail. Clients shall have 14 calendar days after initial submission of an application to submit all other required forms. Under documented extenuating circumstances and with approval from the early childhood services director, clients may be given longer than 14 days but no more than 30 days to submit required documentation:

- (1) a completed signed application form;
- (2) current proof of earned income or participation in the temporary assistance to needy families (TANF) program; social security numbers or assigned TANF identification numbers may be used to verify TANF participation or receipt of child care support;
- (3) school schedule or verification of educational activity, if applicable;
- (4) verification of birth for all applicant's household children;
- (5) proof of unearned income;
- (6) proof of New Mexico home address; and
- (7) CYFD approved provider.

B. Assistance is provided effective the first day of the month of application if all of the following apply:

- (1) the client is utilizing child care services;
- (2) the client is employed, attending school or a training program. In the case of a public health emergency, the department secretary may waive the requirement for employment, attending school or a training program; and

(3) the eligible provider to be paid was providing care from the first day of the month forward.

[8.15.2.10 NMAC - Rp, 8.15.2.10 NMAC, 10/1/2016; A/E, 03/16/2020]

**8.15.2.13 CLIENT RESPONSIBILITIES:** Clients must abide by the regulations set forth by the department and utilize child care assistance benefits only while they are working, attending school or participating in a training or educational program.

A. Co-payments: Co-payments are paid by all clients receiving child care assistance benefits, except for CPS child care, at-risk child care, and qualified grandparents or legal guardians as defined in Paragraph (2) of Subsection C of 8.15.2.11 NMAC. In the case of a public health emergency, the department secretary may waive co-payments for families receiving child care. The department will pay providers the client's approved rate, to include required co-payments, during the time of the public health emergency. Co-payments are determined by income and household size. The co-payment schedule is published yearly at <https://cyfd.org/child-care-services>.

B. Co-payments described in Subsection A of 8.15.2.13 NMAC, are used for determining the base co-payment for the first eligible child. The formula for calculating the co-payment for the first full time child is (low end of the monthly income bracket on the co-payment schedule ÷ 200 percent of annual federal poverty level for household size) X (low end of the monthly income bracket on the co-payment schedule) X 1.1 = monthly copayment for first full time child. Base co-payments for each additional child are determined at one half of the co-payment for the previous child.

- (1) The first child is identified as the child requiring the most hours of child care.
- (2) Each additional child will be ranked based on the most number of hours needed for child care to the least number of hours needed for child care.

C. Each child's co-payment will be adjusted based on the units of services described in Subsection E of 8.15.2.17 NMAC, as follows:

- (1) full time care will be based on one hundred percent of the base co-payment;
  - (2) part time 1 care will be based on seventy-five percent of the base co-payment;
  - (3) part time 2 care will be based on fifty percent of the base co-payment; and
  - (4) part time 3 care will be based on twenty-five percent of the base co-payment.
- D. Clients pay co-payments directly to their child care provider and must remain current in their

payments. A client who does not pay co-payments may be subject to sanctions.

**E.** The co-payment for a child shall not exceed the monthly provider reimbursement rate. If this situation arises, the co-payment may be reduced in the amount by which it exceeds the monthly provider reimbursement rate.

**F.** In-home providers: Parents who choose to use an in-home provider become the employer of the child care provider and must comply with all federal and state requirements related to employers, such as the payment of all federal and state employment taxes and the provision of wage information. Any parent who chooses to employ an in-home provider releases and holds the department harmless from any and all actions resulting from their status as an employer. Payments for in-home provider care are made directly to the parent.

**G.** Notification of changes: Clients must notify the department of changes that affect the need for care, which include but are not limited to any non-temporary change in activity, or household members moving in or out, within five business days of the change. Clients who do not comply with this requirement may be sanctioned.

**H.** Required application with New Mexico human services department's child support enforcement division (CSED):

(1) When one or both of the child's parents are absent from the home, the client shall apply for child support through CSED within 12 months of initial application with the child care assistance program.

(2) The following exceptions include but are not limited to: the client is receiving TANF; the client is already receiving child support; the client is receiving financial support, including but not limited to housing, clothing, food, transportation and funds, from the non-resident parent; there is a joint custody agreement and neither parent is ordered to pay support; parental rights have been terminated; the parent is a foster parent to the child; the parent is an adoptive parent and provides proof of a single parent adoption; at-risk child care; a parent is temporarily out of the home and is still considered part of the household; the client is a teen parent; the client is a grandparent; guardian; parent is deceased or when good cause exists.

(3) Good cause for refusal to apply may be granted when such application is not in the best interest of the child or parent, including but not limited to the following circumstances:

- (a) there is possible physical or emotional harm to the child, parent or guardian;
- (b) the child was conceived as a result of incest or rape;
- (c) legal proceedings for adoption of the child are pending before a court; or
- (d) the client is currently being assisted by a public or licensed private social agency

to resolve the issue of whether to keep the child or relinquish the child for adoption.

(4) The applicant or recipient who makes a claim for good cause shall supply written documentation to establish the claim. The caseworker shall not deny, delay, or discontinue subsidized child care benefits pending a determination of good cause if the applicant or recipient has complied with the requirements to furnish information.

(5) If the client is not exempted from applying with CSED and has not applied within the required timeframe, the client's case will be closed.

[8.15.2.13 NMAC - Rp, 8.15.2.13 NMAC, 10/1/2016; A, 10/1/2019; A/E, 03/16/2020]

**8.15.2.17 PAYMENT FOR SERVICES:** The department pays child care providers on a monthly basis, according to standard practice for the child care industry. Payment is based upon the child's enrollment with the provider as reflected in the child care placement agreement, rather than daily attendance. As a result, most placements reflect a month of service provision and are paid on this basis. However, placements may be closed at any time during the month. The following describes circumstances when placements may be closed and payment discontinued at a time other than the end of the month:

**A.** When the child care placement agreement expires during the month, or when the provider requests that the client change providers or the provider discontinues services; payment will be made through the last day that care is provided.

**B.** Upon a change of provider the client and former provider have three days after the fifth day of nonattendance to notify the department. If this requirement for notification was met, the provider will be paid through the 14th day following the first date of nonattendance. If notification requirement is not met, the provider will be paid through the last date of attendance. The agreement with the new provider shall become effective when payment to the previous provider ceases. If the client notifies the department of the change in providers fewer than 14 days before the change will take place or after the change has taken place, the client is responsible for payment to the new provider beginning on the start date at the new provider and continuing up until the final date of payment to the former provider, as described above. Payment to the former provider will be made through the last day that care is provided if the child is withdrawn from the provider because the health, safety or welfare of the child is at risk, as

determined by a substantiated complaint against the child care facility.

C. The department shall pay a five dollar monthly, not to exceed sixty dollars per year, registration/educational fee per child in full time care, on behalf of department clients under 8.15.2 NMAC. Adjustments to the five dollar registration/educational fee will be made based on units of care. The registration/educational fee will discontinue when a placement closes as a result of a client changing providers, a provider discontinuing services, a child care placement agreement expiring, or a provider's license being suspended or expiring.

D. The amount of the payment is based upon the age of the child and average number of hours per week needed per child during the certification period. The number of hours of care needed is determined with the parent at the time of certification and is reflected in the provider agreement. Providers are paid according to the units of service needed which are reflected in the child care agreement covering the certification period.

E. The department pays for care based upon the following units of service:

Full time	Part time 1	Part time 2 (only for split custody or in cases where a child may have two providers)	Part time 3
Care provided for an average of 30 or more hours per week per month	Care provided for an average of 8-29 hours per week per month	Care provided for an average of 8-19 hours per week per month	Care provided for an average of 7 or less hours per week per month
Pay at 100% of full time rate	Pay at 75 % of full time rate	Pay at 50 % of full time rate	Pay at 25% of full time rate

F. Hours of care shall be rounded to the nearest whole number.

G. Monthly reimbursement rates:

Licensed child care centers			
Infant	Toddler	Pre-school	School-age
\$720.64	\$589.55	\$490.61	\$436.27
Licensed group homes (capacity: 7-12)			
Infant	Toddler	Pre-school	School-age
\$586.07	\$487.11	\$427.13	\$422.74
Licensed family homes (capacity: 6 or less)			
Infant	Toddler	Pre-school	School-age
\$566.98	\$463.50	\$411.62	\$406.83
Registered homes and in-home child care			
Infant	Toddler	Pre-school	School-age
\$289.89	\$274.56	\$251.68	\$251.68

H. The department pays a differential rate according to the license or registration status of the provider, national accreditation status of the provider if applicable, and star level status of the provider if applicable. In the case of a public health emergency, the department secretary may approve a differential rate be paid to licensed providers.

I. Providers holding and maintaining CYFD approved national accreditation status will receive the differential rate listed in Subsection I. below, per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child. All providers who maintain CYFD approved national accreditation status will be paid at the accredited rates for the appropriate age group and type of care. In order to continue at this accredited reimbursement rate, a provider holding national accreditation status must meet and maintain licensing standards and maintain national accreditation status without a lapse. If a provider holding national accreditation status fails to maintain these requirements, this will result in the provider

reimbursement reverting to a lower level of reimbursement.

(1) Providers who receive national accreditation on or before December 31, 2014 from an accrediting body that is no longer approved by CYFD will no longer have national accreditation status, but will remain eligible to receive an additional \$150 per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child until December 31, 2017.

(a) In order to continue at this reimbursement rate until December 31, 2017 a provider holding accreditation from accrediting bodies no longer approved by CYFD must maintain licensing standards and maintain accreditation without a lapse.

(b) If the provider fails to maintain their accreditation, the provider reimbursement will revert to the base reimbursement rate unless they have achieved a FOCUS star level or regain national accreditation status approved by CYFD.

(2) The licensee shall notify the licensing authority within 48 hours of any adverse action by the national accreditation body against the licensee's national accreditation status, including but not limited to expiration, suspension, termination, revocation, denial, nonrenewal, lapse or other action that could affect its national accreditation status. All providers are required to notify the department immediately when a change in accreditation status occurs.

J. The department will pay a differential rate per child per month for full time care above the base reimbursement rate to providers achieving higher Star levels by meeting FOCUS essential elements of quality as follows:

2+ Star FOCUS Child Care Centers, Licensed Family and Group Homes			
Infant	Toddler	Pre-school	School-age
\$88.00	\$88.00	\$88.00	\$88.00
3 Star FOCUS Child Care Centers, Licensed Family and Group Homes			
Infant	Toddler	Pre-school	School-age
\$100.00	\$100.00	\$100.00	\$100.00
4 Star FOCUS Licensed Family and Group Homes			
Infant	Toddler	Pre-school	School-age
\$180.00	\$180.00	\$180.00	\$180.00
5 Star FOCUS or CYFD approved national accreditation Licensed Family and Group Homes			
Infant	Toddler	Pre-school	School-age
\$250.00	\$250.00	\$250.00	\$250.00
4 Star FOCUS Child Care Centers			
Infant	Toddler	Pre-school	School-age
\$280.00	\$280.00	\$250.00	\$180.00
5 Star FOCUS or CYFD approved national accreditation Child Care Centers			
Infant	Toddler	Pre-school	School-age
\$550.00	\$550.00	\$350.00	\$250.00

K. In order to continue at the FOCUS reimbursement rates, a provider must meet and maintain the most recent FOCUS eligibility requirements and star level criteria. If the provider fails to meet the FOCUS eligibility requirements and star level criteria the provider reimbursement will revert to the FOCUS criteria level demonstrated.

L. Differential rates determined by achieving higher star levels determined by AIM HIGH essential elements of quality will be discontinued effective December 31, 2017. The department will pay a differential rate to providers achieving higher star levels determined by the AIM HIGH essential elements of quality until December 31, 2017 as follows: 3-Star at \$88.00 per month per child for full time care above the base reimbursement rate; 4-Star at \$122.50 per month per child for full time care above the base reimbursement rate, and 5-Star at \$150.00 per

child per month for full time care above the base reimbursement rate. In order to continue at these reimbursement rates, a provider must maintain and meet most recent AIM HIGH star criteria and basic licensing requirements. If the provider fails to meet the requirements, this will result in the provider reimbursement reverting to the base reimbursement rate.

**M.** The department pays a differential rate equivalent to five percent, ten percent or fifteen percent of the applicable full-time/part-time rate to providers who provide care during non-traditional hours. Non-traditional care will be paid according to the following charts:

	1-10 hrs/wk	11-20 hrs/wk	21 or more hrs/wk
After hours	5%	10%	15%

	1-10 hrs/wk	11-20 hrs/wk	21 or more hrs/wk
Weekend hours	5%	10%	15%

**N.** If a significant change occurs in the client's circumstances, (see Subsection G of 8.15.2.13 NMAC) the child care placement agreement may be modified and the rate of payment is adjusted. The department monitors attendance and reviews the placement at the end of the certification period when the child is re-certified.

**O.** The department may conduct provider or parent audits to assess that the approved service units are consistent with usage. Providers found to be defrauding the department are sanctioned. Providers must provide all relevant information requested by the department during an audit.

**P.** Payments are made to the provider for the period covered in the placement agreement or based on the availability of funds.

[8.15.2.17 NMAC - Rp, 8.15.2.17 NMAC, 10/1/2016; A, 10/1/2019, A/E, 03/16/2020]

# **EMERGENCY RULES**

## **8.15.2 NMAC**



## New Mexico Register / Volume XXXI, Issue 7 / April 7, 2020

This is an emergency amendment to 8.15.2 NMAC Sections 10, 13, and 17, effective March 16, 2020.

**8.15.2.10 APPLICATION PROCESS:**

**A.** Clients apply for child care assistance benefits by presenting the following documents to establish eligibility in person at the local child care office. Upon a need or request by the client, the department may approve a client to submit their initial application by fax, email, or mail. Clients shall have 14 calendar days after initial submission of an application to submit all other required forms. Under documented extenuating circumstances and with approval from the early childhood services director, clients may be given longer than 14 days but no more than 30 days to submit required documentation:

(1) a completed signed application form;  
 (2) current proof of earned income or participation in the temporary assistance to needy families (TANF) program; social security numbers or assigned TANF identification numbers may be used to verify TANF participation or receipt of child care support;

- (3) school schedule or verification of educational activity, if applicable;  
 (4) verification of birth for all applicant's household children;  
 (5) proof of unearned income;  
 (6) proof of New Mexico home address; and  
 (7) CYFD approved provider.

**B.** Assistance is provided effective the first day of the month of application if all of the following apply:

(1) the client is utilizing child care services;  
 (2) the client is employed, attending school or a training program. In the case of a public health emergency, the department secretary may waive the requirement for employment, attending school or a training program; and

(3) the eligible provider to be paid was providing care from the first day of the month forward.

[8.15.2.10 NMAC - Rp, 8.15.2.10 NMAC, 10/1/2016; A/E, 03/16/2020]

**8.15.2.13 CLIENT RESPONSIBILITIES:** Clients must abide by the regulations set forth by the department and utilize child care assistance benefits only while they are working, attending school or participating in a training or educational program.

**A.** Co-payments: Co-payments are paid by all clients receiving child care assistance benefits, except for CPS child care, at-risk child care, and qualified grandparents or legal guardians as defined in Paragraph (2) of Subsection C of 8.15.2.11 NMAC. In the case of a public health emergency, the department secretary may waive co-payments for families receiving child care. The department will pay providers the client's approved rate, to include required co-payments, during the time of the public health emergency. Co-payments are determined by income and household size. The co-payment schedule is published yearly at <https://cyfd.org/child-care-services>. **B.** Co-payments described in Subsection A of 8.15.2.13 NMAC, are used for determining the base co-payment for the first eligible child. The formula for calculating the co-payment for the first full time child is (low end of the monthly income bracket on the co-payment schedule ÷ 200 percent of annual federal poverty level for household size) X (low end of the monthly income bracket on the co-payment schedule) X 1.1 = monthly copayment for first full time child. Base co-payments for each additional child are determined at one half of the co-payment for the previous child.

(1) The first child is identified as the child requiring the most hours of child care.  
 (2) Each additional child will be ranked based on the most number of hours needed for child care to the least number of hours needed for child care.

**C.** Each child's co-payment will be adjusted based on the units of services described in Subsection E of 8.15.2.17 NMAC, as follows:

- (1) full time care will be based on one hundred percent of the base co-payment;  
 (2) part time 1 care will be based on seventy-five percent of the base co-payment;  
 (3) part time 2 care will be based on fifty percent of the base co-payment; and  
 (4) part time 3 care will be based on twenty-five percent of the base co-payment.

**D.** Clients pay co-payments directly to their child care provider and must remain current in their payments. A client who does not pay co-payments may be subject to sanctions.

**E.** The co-payment for a child shall not exceed the monthly provider reimbursement rate. If this situation arises, the co-payment may be reduced in the amount by which it exceeds the monthly provider reimbursement rate.

**F.** In-home providers: Parents who choose to use an in-home provider become the employer of the child care provider and must comply with all federal and state requirements related to employers, such as the payment of all

federal and state employment taxes and the provision of wage information. Any parent who chooses to employ an in-home provider releases and holds the department harmless from any and all actions resulting from their status as an employer. Payments for in-home provider care are made directly to the parent.

**G.** Notification of changes: Clients must notify the department of changes that affect the need for care, which include but are not limited to any non-temporary change in activity, or household members moving in or out, within five business days of the change. Clients who do not comply with this requirement may be sanctioned.

**H.** Required application with New Mexico human services department's child support enforcement division (CSED):

(1) When one or both of the child's parents are absent from the home, the client shall apply for child support through CSED within 12 months of initial application with the child care assistance program.

(2) The following exceptions include but are not limited to: the client is receiving TANF; the client is already receiving child support; the client is receiving financial support, including but not limited to housing, clothing, food, transportation and funds, from the non-resident parent; there is a joint custody agreement and neither parent is ordered to pay support; parental rights have been terminated; the parent is a foster parent to the child; the parent is an adoptive parent and provides proof of a single parent adoption; at-risk child care; a parent is temporarily out of the home and is still considered part of the household; the client is a teen parent; the client is a grandparent; guardian; parent is deceased or when good cause exists.

(3) Good cause for refusal to apply may be granted when such application is not in the best interest of the child or parent, including but not limited to the following circumstances:

- (a) there is possible physical or emotional harm to the child, parent or guardian;
  - (b) the child was conceived as a result of incest or rape;
  - (c) legal proceedings for adoption of the child are pending before a court; or
  - (d) the client is currently being assisted by a public or licensed private social agency
- to resolve the issue of whether to keep the child or relinquish the child for adoption.

(4) The applicant or recipient who makes a claim for good cause shall supply written documentation to establish the claim. The caseworker shall not deny, delay, or discontinue subsidized child care benefits pending a determination of good cause if the applicant or recipient has complied with the requirements to furnish information.

(5) If the client is not exempted from applying with CSED and has not applied within the required timeframe, the client's case will be closed.

[8.15.2.13 NMAC - Rp, 8.15.2.13 NMAC, 10/1/2016; A, 10/1/2019; A/E, 03/16/2020]

**8.15.2.17 PAYMENT FOR SERVICES:** The department pays child care providers on a monthly basis, according to standard practice for the child care industry. Payment is based upon the child's enrollment with the provider as reflected in the child care placement agreement, rather than daily attendance. As a result, most placements reflect a month of service provision and are paid on this basis. However, placements may be closed at any time during the month. The following describes circumstances when placements may be closed and payment discontinued at a time other than the end of the month:

**A.** When the child care placement agreement expires during the month, or when the provider requests that the client change providers or the provider discontinues services; payment will be made through the last day that care is provided.

**B.** Upon a change of provider the client and former provider have three days after the fifth day of nonattendance to notify the department. If this requirement for notification was met, the provider will be paid through the 14th day following the first date of nonattendance. If notification requirement is not met, the provider will be paid through the last date of attendance. The agreement with the new provider shall become effective when payment to the previous provider ceases. If the client notifies the department of the change in providers fewer than 14 days before the change will take place or after the change has taken place, the client is responsible for payment to the new provider beginning on the start date at the new provider and continuing up until the final date of payment to the former provider, as described above. Payment to the former provider will be made through the last day that care is provided if the child is withdrawn from the provider because the health, safety or welfare of the child is at risk, as determined by a substantiated complaint against the child care facility.

**C.** The department shall pay a five dollar monthly, not to exceed sixty dollars per year, registration/educational fee per child in full time care, on behalf of department clients under 8.15.2 NMAC. Adjustments to the five dollar registration/educational fee will be made based on units of care. The registration/educational fee will discontinue when a placement closes as a result of a client changing providers, a provider discontinuing services, a child care placement agreement expiring, or a provider's license being suspended or expiring.

**D.** The amount of the payment is based upon the age of the child and average number of hours per week needed per child during the certification period. The number of hours of care needed is determined with the parent at the

time of certification and is reflected in the provider agreement. Providers are paid according to the units of service needed which are reflected in the child care agreement covering the certification period.

**E.** The department pays for care based upon the following units of service:

Full time	Part time 1	Part time 2 (only for split custody or in cases where a child may have two providers)	Part time 3
Care provided for an average of 30 or more hours per week per month	Care provided for an average of 8-29 hours per week per month	Care provided for an average of 8-19 hours per week per month	Care provided for an average of 7 or less hours per week per month
Pay at 100% of full time rate	Pay at 75 % of full time rate	Pay at 50 % of full time rate	Pay at 25% of full time rate

**F.** Hours of care shall be rounded to the nearest whole number.

**G.** Monthly reimbursement rates:

Licensed child care centers			
Infant	Toddler	Pre-school	School-age
\$720.64	\$589.55	\$490.61	\$436.27
Licensed group homes (capacity: 7-12)			
Infant	Toddler	Pre-school	School-age
\$586.07	\$487.11	\$427.13	\$422.74
Licensed family homes (capacity: 6 or less)			
Infant	Toddler	Pre-school	School-age
\$566.98	\$463.50	\$411.62	\$406.83
Registered homes and in-home child care			
Infant	Toddler	Pre-school	School-age
\$289.89	\$274.56	\$251.68	\$251.68

**H.** The department pays a differential rate according to the license or registration status of the provider, national accreditation status of the provider if applicable, and star level status of the provider if applicable. In the case of a public health emergency, the department secretary may approve a differential rate be paid to licensed providers.

**I.** Providers holding and maintaining CYFD approved national accreditation status will receive the differential rate listed in Subsection I. below, per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child. All providers who maintain CYFD approved national accreditation status will be paid at the accredited rates for the appropriate age group and type of care. In order to continue at this accredited reimbursement rate, a provider holding national accreditation status must meet and maintain licensing standards and maintain national accreditation status without a lapse. If a provider holding national accreditation status fails to maintain these requirements, this will result in the provider reimbursement reverting to a lower level of reimbursement.

(1) Providers who receive national accreditation on or before December 31, 2014 from an accrediting body that is no longer approved by CYFD will no longer have national accreditation status, but will remain eligible to receive an additional \$150 per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child until December 31, 2017.

(a) In order to continue at this reimbursement rate until December 31, 2017 a provider holding accreditation from accrediting bodies no longer approved by CYFD must maintain licensing standards and maintain accreditation without a lapse.

(b) If the provider fails to maintain their accreditation, the provider reimbursement will revert to the base reimbursement rate unless they have achieved a FOCUS star level or regain national accreditation status approved by CYFD.

(2) The licensee shall notify the licensing authority within 48 hours of any adverse action by the national accreditation body against the licensee's national accreditation status, including but not limited to expiration,

suspension, termination, revocation, denial, nonrenewal, lapse or other action that could affect its national accreditation status. All providers are required to notify the department immediately when a change in accreditation status occurs.

**J.** The department will pay a differential rate per child per month for full time care above the base reimbursement rate to providers achieving higher Star levels by meeting FOCUS essential elements of quality as follows:

2+ Star FOCUS Child Care Centers, Licensed Family and Group Homes			
Infant	Toddler	Pre-school	School-age
\$88.00	\$88.00	\$88.00	\$88.00
3 Star FOCUS Child Care Centers, Licensed Family and Group Homes			
Infant	Toddler	Pre-school	School-age
\$100.00	\$100.00	\$100.00	\$100.00
4 Star FOCUS Licensed Family and Group Homes			
Infant	Toddler	Pre-school	School-age
\$180.00	\$180.00	\$180.00	\$180.00
5 Star FOCUS or CYFD approved national accreditation Licensed Family and Group Homes			
Infant	Toddler	Pre-school	School-age
\$250.00	\$250.00	\$250.00	\$250.00
4 Star FOCUS Child Care Centers			
Infant	Toddler	Pre-school	School-age
\$280.00	\$280.00	\$250.00	\$180.00
5 Star FOCUS or CYFD approved national accreditation Child Care Centers			
Infant	Toddler	Pre-school	School-age
\$550.00	\$550.00	\$350.00	\$250.00

**K.** In order to continue at the FOCUS reimbursement rates, a provider must meet and maintain the most recent FOCUS eligibility requirements and star level criteria. If the provider fails to meet the FOCUS eligibility requirements and star level criteria the provider reimbursement will revert to the FOCUS criteria level demonstrated.

**L.** Differential rates determined by achieving higher star levels determined by AIM HIGH essential elements of quality will be discontinued effective December 31, 2017. The department will pay a differential rate to providers achieving higher star levels determined by the AIM HIGH essential elements of quality until December 31, 2017 as follows: 3-Star at \$88.00 per month per child for full time care above the base reimbursement rate; 4-Star at \$122.50 per month per child for full time care above the base reimbursement rate, and 5-Star at \$150.00 per child per month for full time care above the base reimbursement rate. In order to continue at these reimbursement rates, a provider must maintain and meet most recent AIM HIGH star criteria and basic licensing requirements. If the provider fails to meet the requirements, this will result in the provider reimbursement reverting to the base reimbursement rate.

**M.** The department pays a differential rate equivalent to five percent, ten percent or fifteen percent of the applicable full-time/part-time rate to providers who provide care during non-traditional hours. Non-traditional care will be paid according to the following charts:

	1-10 hrs/wk	11-20 hrs/wk	21 or more hrs/wk
After hours	5%	10%	15%

	1-10 hrs/wk	11-20 hrs/wk	21 or more hrs/wk
Weekend hours	5%	10%	15%

**N.** If a significant change occurs in the client's circumstances, (see Subsection G of 8.15.2.13 NMAC) the child care placement agreement may be modified and the rate of payment is adjusted. The department monitors attendance and reviews the placement at the end of the certification period when the child is re-certified.

**O.** The department may conduct provider or parent audits to assess that the approved service units are consistent with usage. Providers found to be defrauding the department are sanctioned. Providers must provide all relevant information requested by the department during an audit.

**P.** Payments are made to the provider for the period covered in the placement agreement or based on the availability of funds.

[8.15.2.17 NMAC - Rp, 8.15.2.17 NMAC, 10/1/2016; A, 10/1/2019, A/E, 03/16/2020]



## **Gonzales, Debra A., CYFD**

---

**From:** Sweeney, Sylvia, CYFD  
**Sent:** Monday, March 16, 2020 4:27 PM  
**To:** Gonzales, Debra A., CYFD; Garrett Thomas Massey; Brown, Kimberly, CYFD; Malisa Kasparian; Kathleen Carroll; Rachel Nowak  
**Cc:** Kliphuis, Tracy L, CYFD; RebolledoRea, Alejandra, CYFD; Smith, Ashleigh, CYFD; DudleyChavez, Claire, ECECD; Vigil, Raymond P., CYFD  
**Subject:** RE: URGENT! PLEASE POST Emergency Rulemaking 8.15.2 - today

Thank you Debra. Please review and let me know if there are any adjustments, and or additional places to post throughout the ECS web pages:

- <https://cyfd.org/child-care-services>
- <https://cyfd.org/child-care-services/child-care-assistance>

### **Child Care Services**

The Child Care Services Bureau (CCSB) administers the Child Care Assistance, Child Care Licensing and Registered Child Care Home programs. In collaboration with CYFD's Office of Child Development and Family Nutrition Bureau, the Child Services Bureau plans and coordinates quality child care services (including training, technical assistance, health safety and monitoring) and works to build child care capacity statewide. More information on these programs can be found at [www.NewMexicoKids.org](http://www.NewMexicoKids.org).

#### **NOTICE OF PUBLIC RULE HEARING:**

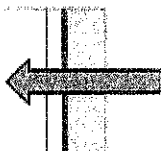
**POSTPONEMENT** of Notice Public Rule Hearing: Due to Executive Order 2020-004 issued by Governor Michelle L. Grisham. Read the postponement [here](#).

**UPDATE: Emergency Rule Amendments to 8.15.2 NM**  
- Child Care Assistance Requirements for Child Care Assistance Programs for Clients and Child Care Providers.  
**Effective March 16, 2020.**

Children, Youth and Families Department (CYFD) is creating

#### **• 8.15.2 NMAC Emergency Amd.**

• Effective 3/16/20 PDF



**From:** Gonzales, Debra A., CYFD

**Sent:** Monday, March 16, 2020 4:07 PM

**To:** Sweeney, Sylvia, CYFD <Sylvia.Sweeney@state.nm.us>; Garrett Thomas Massey <garrettmasssey@unm.edu>; Brown, Kimberly, CYFD <kimberly.brown@state.nm.us>; Malisa Kasparian <mkaspari@unm.edu>; Kathleen Carroll <carrollk@unm.edu>; Rachel Nowak <rachelmitchell@unm.edu>

**Cc:** Kliphuis, Tracy L, CYFD <TracyL.Kliphuis@state.nm.us>; RebolledoRea, Alejandra, CYFD <Alejandra.Rebolledo@state.nm.us>; Smith, Ashleigh, CYFD <Ashleigh.Smith@state.nm.us>; DudleyChavez, Claire,

ECECD <Claire.DudleyChavez@state.nm.us>; Vigil, Raymond P., CYFD <raymond.vigil@state.nm.us>; Gonzales, Debra A., CYFD <debra.gonzales@state.nm.us>

**Subject:** URGENT! PLEASE POST Emergency Rulemaking 8.15.2 - today

Please post the attached emergency rule amendments. **PLEASE POST BY 5:00 TODAY.**

EMERGENCY RULE AMENDMENTS TO 8.15.2 NMAC – Child Care Assistance Requirements for Child Care Assistance Programs for Clients and Child Care Providers. Effective March 16, 2020.

Link to attach document.

KIM – PLEASE POST IN ALL FIELD OFFICES.

Thank you all! Sorry for the short notice.

Deb

***Debra A. Gonzales, Policy Compliance and Quality Assurance Manager***

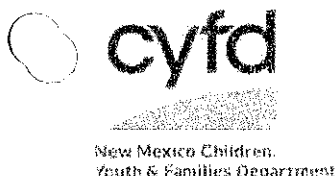
Office: 505.231-5820

Mobile: 505.231.5820

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Email: [Debra.Gonzales@state.nm.us](mailto:Debra.Gonzales@state.nm.us)

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## **Gonzales, Debra, ECECD**

**From:** Garrett Thomas Massey <garrettmassey@unm.edu>  
**Sent:** Monday, March 16, 2020 4:28 PM  
**To:** Gonzales, Debra A., CYFD; Sweeney, Sylvia, CYFD; Brown, Kimberly, CYFD; Malisa Kasparian; Kathleen Carroll; Rachel Nowak  
**Cc:** Kliphuis, Tracy L, CYFD; RebolledoRea, Alejandra, CYFD; Smith, Ashleigh, CYFD; DudleyChavez, Claire, ECECD; Vigil, Raymond P., CYFD  
**Subject:** [EXT] Re: URGENT! PLEASE POST Emergency Rulemaking 8.15.2 - today

Good afternoon,

The announcement has been posted to [newmexicokids.org](http://www.newmexicokids.org) and is accessible on our announcements page (<http://www.newmexicokids.org/announcements/>) and our homepage (<http://www.newmexicokids.org/>)

### NewMexicoKids

Welcome. The NewMexicoKids website offers a variety of services and resources for both educators and families in the State of New Mexico. Whether searching for quality child care or looking for professional development for early childhood educators, you will find information on this site that links you to the information or services you may need.

[www.newmexicokids.org](http://www.newmexicokids.org)

### Announcements – NewMexicoKids

NEW (2020): Proposed regulation changes to 8.8.3 NMAC – CHILDREN, YOUTH, AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION: Notice of Rulemaking and Public Rule Hearing

[www.newmexicokids.org](http://www.newmexicokids.org)

Please let me know if anything needs to change regarding the format or the language used on the site. I will be available to make changes as needed due to the nature of the post.

Garrett Massey  
Web Designer  
Early Childhood Services Center  
NewMexicoKids Resource and Referral  
1634 University Blvd NE  
Albuquerque, NM 87102  
Support Line: 800-691-9067  
Desk: 505-227-0376  
[www.newmexicokids.org](http://www.newmexicokids.org)



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---

**From:** Gonzales, Debra A., CYFD <debra.gonzales@state.nm.us>

**Sent:** Monday, March 16, 2020 4:07 PM

**To:** Sweeney, Sylvia, CYFD <Sylvia.Sweeney@state.nm.us>; Garrett Thomas Massey <garrettmasssey@unm.edu>; Brown, Kimberly, CYFD <kimberly.brown@state.nm.us>; Malisa Kasparian <mkaspari@unm.edu>; Kathleen Carroll <carrollk@unm.edu>; Rachel Nowak <rachelmitchell@unm.edu>

**Cc:** Kliphuis, Tracy L, CYFD <TracyL.Kliphuis@state.nm.us>; RebolledoRea, Alejandra, CYFD <Alejandra.Rebolledo@state.nm.us>; Smith, Ashleigh, CYFD <Ashleigh.Smith@state.nm.us>; DudleyChavez, Claire, ECECD <Claire.DudleyChavez@state.nm.us>; Vigil, Raymond P., CYFD <raymond.vigil@state.nm.us>; Gonzales, Debra A., CYFD <debra.gonzales@state.nm.us>

**Subject:** URGENT! PLEASE POST Emergency Rulemaking 8.15.2 - today

**UNM-IT Warning:**

Please post the attached emergency rule amendments. **PLEASE POST BY 5:00 TODAY.**

EMERGENCY RULE AMENDMENTS TO 8.15.2 NMAC – Child Care Assistance Requirements for Child Care Assistance Programs for Clients and Child Care Providers. Effective March 16, 2020.

Link to attach document.

KIM – PLEASE POST IN ALL FIELD OFFICES.

Thank you all! Sorry for the short notice.

Deb

***Debra A. Gonzales, Policy Compliance and Quality Assurance Manager***

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Mobile: 505.231.5820

Fax: 505.476.0143

Email: [Debra.Gonzales@state.nm.us](mailto:Debra.Gonzales@state.nm.us)

Web: [www.cyfd.org](http://www.cyfd.org)



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Youth & Families Department

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## Kliphuis, Tracy L, CYFD

**From:** Kliphuis, Tracy L, CYFD  
**Sent:** Monday, March 16, 2020 5:19 PM  
**To:** Kliphuis, Tracy L, CYFD  
**Cc:** Debra A. CYFD Gonzales (debra.gonzales@state.nm.us)  
**Subject:** Sunshine Portal Posting

8.15.2 NMAC EMERGENCY RU

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**Proposed Rule Name:**

8.15.2 NMAC EMERGENCY RULE AMENDMENT

**Agency:**

Children Youth & Families Department

**Purpose:**

The purpose of the rules is to amend the child care assistance requirements under 8.15.2 NMAC. Specifically, the following language has been added:

8.15.2.10.B (2) In the case of a public health emergency, the department secretary may waive the requirement for employment, attending school or a training program;

8.15.2.13.A. In the case of a public health emergency, the department secretary may waive co-payments for families receiving child care. The department will pay providers the client's approved rate, to include required co-payments, during the time of the public health emergency.

8.15.2.17. H. In the case of a public health emergency, the department secretary may approve a differential rate be paid to licensed providers.

**Summary:**

These amendments are emergency rule amendments under NMSA 14-4-5.6 These are temporary rule amendments. Pursuant to 14-4-5.6 (E), these emergency amendments are not permanent. They will expire if no permanent rule is adopted within one hundred eighty days from the effective date of these emergency amendments.

These amendments are necessary for the reasons outlined below. On March 11, 2020, New Mexico Governor

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**Gonzales, Debra A., CYFD**

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**From:** Gonzales, Debra A., CYFD  
**Sent:** Monday, March 16, 2020 4:07 PM  
**To:** Sweeney, Sylvia, CYFD; Garrett Thomas Massey; Brown, Kimberly, CYFD; Malisa Kasparian; Kathleen Carroll; Rachel Nowak  
**Cc:** Kliphuis, Tracy L, CYFD; RebolledoRea, Alejandra, CYFD; Smith, Ashleigh, CYFD; DudleyChavez, Claire, ECECD; Vigil, Raymond P., CYFD; Gonzales, Debra A., CYFD  
**Subject:** URGENT! PLEASE POST Emergency Rulemaking 8.15.2 - today  
**Attachments:** 8 15 2\_amend\_emergency\_posting.pdf

Please post the attached emergency rule amendments. **PLEASE POST BY 5:00 TODAY.**

EMERGENCY RULE AMENDMENTS TO 8.15.2 NMAC – Child Care Assistance Requirements for Child Care Assistance Programs for Clients and Child Care Providers. Effective March 16, 2020.

Link to attach document.

✓ KIM – PLEASE POST IN ALL FIELD OFFICES.

Thank you all! Sorry for the short notice.

○ Deb

***Debra A. Gonzales, Policy Compliance and Quality Assurance Manager***

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011513651307

Attn: Maria Griego

## Gonzales, Debra, ECECD

---

**From:** Gonzales, Debra, ECECD  
**Sent:** Friday, July 10, 2020 12:29 PM  
**To:** Gonzales, Debra, ECECD  
**Subject:** FW: EMERGENCY RULE AMENDMENTS TO 8.15.2 NMAC

**From:** Gonzales, Debra A., CYFD  
**Sent:** Monday, March 16, 2020 5:22 PM  
**To:** Gonzales, Debra A., CYFD  
**Cc:** Kliphuis, Tracy L, CYFD; RebolledoRea, Alejandra, CYFD; Brown, Kimberly, CYFD; Smith, Ashleigh, CYFD; DudleyChavez, Claire, ECECD; Raymond Vigil (raymond.vigil@state.nm.us)  
**Subject:** EMERGENCY RULE AMENDMENTS TO 8.15.2 NMAC

Dear Early Childhood Partner and Parents:

EMERGENCY RULE AMENDMENTS TO 8.15.2 NMAC – Child Care Assistance Requirements for Child Care Assistance Programs for Clients and Child Care Providers. Effective March 16, 2020.

On March 11, 2020, New Mexico Governor Michelle Lujan Grisham issued an executive order (E.O. 2020-004), declaring a state of public health emergency for the State of New Mexico in response to confirmed cases of COVID-19. On March 12, 2020, the Cabinet Secretary for the New Mexico Department of Health issued a Public Health Declaration to limit mass gatherings due to COVID-19. Due to the COVID-19 outbreak and the resulting executive orders and declarations, there is an emergency need for these amendments.

If you have any questions, please email [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us)

***Debra A. Gonzales, Policy Compliance and Quality Assurance Manager***

**Office:** 505.231-5820  
**Mobile:** 505.231.5820  
**Fax:** 505.476.0143  
**Email:** [Debra.Gonzales@state.nm.us](mailto:Debra.Gonzales@state.nm.us)  
**Web:** [www.cyfd.org](http://www.cyfd.org)



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**Gonzales, Debra, ECECD**

---

**From:** Ortiz, Antoinette M, CYFD  
**Sent:** Monday, March 16, 2020 4:37 PM  
**Subject:** EMERGENCY RULE AMENDMENTS TO 8.15.2 NMAC  
**Attachments:** 8 15 2\_amend\_emergency\_posting.pdf

Dear Early Childhood Partner and Parents:

EMERGENCY RULE AMENDMENTS TO 8.15.2 NMAC – Child Care Assistance Requirements for Child Care Assistance Programs for Clients and Child Care Providers. Effective March 16, 2020.

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If you have any questions, please email [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us)

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## **Gonzales, Debra A., CYFD**

**From:** Gonzales, Debra A., CYFD  
**Sent:** Monday, March 16, 2020 4:11 PM  
**To:** lcs@nmlegis.gov  
**Cc:** RebolledoRea, Alejandra, CYFD; Brown, Kimberly, CYFD; Smith, Ashleigh, CYFD; Kliphuis, Tracy L, CYFD; Raymond Vigil (raymond.vigil@state.nm.us); Gonzales, Debra A., CYFD  
**Subject:** Emergency Rule Amendments to 8.15.2 NMAC  
**Attachments:** 8 15 2\_amend\_emergency\_posting.pdf

### **Tracking:**

#### **Recipient**

#### **Read**

lcs@nmlegis.gov

Read: 3/17/2020 7:56 AM

RebolledoRea, Alejandra, CYFD

Brown, Kimberly, CYFD

Read: 3/16/2020 4:22 PM

Smith, Ashleigh, CYFD

Read: 3/16/2020 4:16 PM

Kliphuis, Tracy L, CYFD

Raymond Vigil (raymond.vigil@state.nm.us)

Read: 3/16/2020 6:14 PM

Gonzales, Debra A., CYFD

Please see attached for the following:

EMERGENCY RULE AMENDMENTS TO 8.15.2 NMAC – Child Care Assistance Requirements for Child Care Assistance Programs for Clients and Child Care Providers. Effective March 16, 2020.

Please distribute to appropriate interim and standing legislative committees.

***Debra A. Gonzales, Policy Compliance and Quality Assurance Manager***

Office: 505.231-5820

Mobile: 505.231.5820

Fax: 505.476.0143

Email: [Debra.Gonzales@state.nm.us](mailto:Debra.Gonzales@state.nm.us)

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