



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

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STATE OF WASHINGTON
FILED

DATE: April 21, 2020

TIME: 11:55 AM

WSR 20-09-136

Agency: Department of Children, Youth, and Families

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose: Comply with the agreement between the department and family home child cares' representative to establish a partial monthly Working Connections and Seasonal Child Care rate for school-age children effective September 1, 2019.

Citation of rules affected by this order:

- New:
- Repealed:
- Amended: WACs 110-15-0003, 110-15-0190, 110-15-0205, and 110-15-3770
- Suspended:

Statutory authority for adoption: RCWs 43.216.055 and 43.216.065

Other authority: Chapter 415, Laws of 2019 §§ 225 and 943

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: On August 28, 2019, DCYF adopted rules to implement a partial day rate in accordance with Chapter 415, Laws of 2019 and the interest arbitration award agreed to by the governor and the family home child cares' representative. These emergency rules are being extended while the department completes the permanent rule-making process.

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	<u>4</u>	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New ____ Amended ____ Repealed ____

The number of sections adopted on the agency's own initiative:


New ____ Amended ____ Repealed ____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New ____ Amended ____ Repealed ____

The number of sections adopted using:

Negotiated rule making:	New	____	Amended	____	Repealed	____
Pilot rule making:	New	____	Amended	____	Repealed	____
Other alternative rule making:	New	____	Amended	____	Repealed	____

Date Adopted: April 21, 2020	Signature: 
Name: Brenda Villarreal	
Title: DCYF Rules Coordinator	

WAC 110-15-0003 Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

"Able" means being physically and mentally capable of caring for a child in a responsible manner.

"Administrative error" means an error made by DCYF or DSHS through no fault of the consumer or provider.

"Approved activity" means an activity that a consumer is required to participate in at application and reapplication to be eligible to collect benefits.

"Authorization" means the transaction created by ((DSHS)) DCYF which allows the provider to claim payment during a certification period. The transaction may be adjusted based on the family need.

"Available" means being free to provide care when not participating in an approved activity under WAC 110-15-0040, 110-15-0045, or 110-15-0050 during the time child care is needed.

"Benefit" means a regular payment made by a government agency on behalf of a person eligible to receive it.

"Calendar year" means those dates between and including January 1st and December 31st.

"Capacity" means the maximum number of children the licensee is authorized to have in care at any given time.

"Collective bargaining agreement" or **"CBA"** means the most recent agreement that has been negotiated and entered into between the exclusive bargaining representative for all licensed and license-exempt family child care providers as defined in chapter 41.56 RCW.

"Consumer" means the person eligible to receive:

- (a) WCCC benefits as described in part II of this chapter; or
- (b) SCC benefits as described in part III of this chapter.

"Copayment" means the amount of money the consumer is responsible to pay the child care provider each month toward the cost of child care, whether provided under a voucher or contract.

"Days" means calendar days unless otherwise specified.

"DCYF" means the department of children, youth, and families.

"DSHS" means the department of social and health services.

"Early achievers" means a program that improves the quality of early learning programs and supports and rewards providers for their participation.

"Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature, symbol, or process executed by a person with the intent to sign the record.

"Eligibility" means that a consumer has met all of the requirements of:

- (a) Part II of this chapter to receive WCCC program subsidies; or

(b) Part III of this chapter to receive SCC program subsidies.

"Employment" or **"work"** means engaging in any legal, income generating activity that is taxable under the U.S. Tax Code or that would be taxable with or without a treaty between an Indian Nation and the U.S. This includes unsubsidized employment, as verified by ((DSHS)) DCYF, and subsidized employment, such as:

(a) Working in a federal or state paid work study program; or

(b) VISTA volunteers, AmeriCorps, JobCorps, and Washington Service Corps (WSC) if the income is taxed.

"Existing child care provider" means a licensed or certified provider who received a state subsidy payment between July 1, 2015, and June 30, 2016.

"Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefits to himself or herself or another person. See RCW 74.04.004.

"Homeless" means homeless as defined by the McKinney-Vento Homeless Assistance Act of 1987 without a fixed, regular, and adequate nighttime residence.

"In-home/relative provider" or **"family, friends, and neighbors (FFN) provider"** means an individual who is exempt from child care licensing standards and is approved for working connections child care (WCCC) payment under WAC 110-15-0125.

"In loco parentis" means the adult caring for an eligible child in the absence of the biological, adoptive, or step-parents, and who is not a relative, court-ordered guardian, or custodian, and is responsible for exercising day-to-day care and control of the child.

"Living in the household" means people who reside at the same physical address.

"Lump-sum payment" means a single payment that is not anticipated to continue.

"Night shift" means employment for a minimum of six hours between the hours of 8 p.m. and 8 a.m.

"Nonschool age child" means a child who is six years of age or younger and is not enrolled in public or private school.

"Overpayment" means a payment or benefits received by a provider or consumer that exceeds the amount the provider or consumer is approved for or eligible to receive.

"Parental control" means a child is living with a biological or adoptive parent, stepparent, legal guardian verifiable by a legal or court document, adult sibling or step-sibling, nephew or niece, aunt, great-aunt, uncle, great-uncle, grandparent or great-grandparent, or an approved in loco parentis custodian responsible for exercising day-to-day care and control of the child.

"Preschool age child" means a child age thirty months through six years of age who is not attending kindergarten or elementary school.

"Private school" means a private school approved by the state under chapter 28A.195 RCW.

"Program violation" means a failure to adhere to program requirements, which results in an overpayment.

"Sanction" means deterrent action imposed by the department to address a program violation finding.

"SCC" means the seasonal child care program, which is a child care subsidy program described in part III of this chapter that assists eligible families who are seasonally employed in agriculturally related work outside of the consumer's home to pay for licensed or certified child care.

"School age child" means a child who is between five years of age through twelve years of age and who is attending public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

"Seasonally available agricultural related work" means work that is directly related to the cultivation, production, harvesting, or processing of fruit trees or crops.

"Second tier eligibility" means an increased income limit for eligible families who reapply before the end of their current eligibility period.

"Self-employment" means engaging in any legal income generating activity that is taxable under the U.S. Tax Code or that would be taxable with or without a treaty between an Indian Nation and the U.S., as verified by Washington state business license, or a tribal, county, or city business or occupation license, as applicable, and a uniform business identification (UBI) number for approved self-employment activities that occur outside of the home. Incorporated businesses are not considered self-employment enterprises.

"Sign" means placing a name or legal mark on a document by physically writing or using an electronic signature.

"State median income" means an annual income figure representing the point at which there are as many families earning more than that amount as there are earning less than that amount. The Census Bureau publishes median family income figures for each state each year, depending on family size.

"TANF" means temporary assistance for needy families, a cash assistance program administered by DSHS.

"Technical assistance" means a strategy that is focused on the resolution of a specific concern or need. This may be in writing or by phone call.

"To the extent of available funds" means one or more of the following:

- (a) Limited or closed enrollment;
- (b) Subject to a priority list for new enrollees pursuant to applicable state and federal law and as described in WAC 110-15-2210; or
- (c) Subject to a waiting list.

"Typical school day" means the attendance of children at school for a period of at least five hours per day on one or more of the following days: Monday, Tuesday, Wednesday, Thursday, or Friday.

"Unintentional" means not done willfully or on purpose.

"Waiting list" means a list of applicants or reapplicants eligible to receive subsidy benefits when funding becomes available.

"WCCC" means the working connections child care program, a child care subsidy program described in part II of this chapter that assists eligible families to pay for child care.

AMENDATORY SECTION (Amending WSR 19-08-020, filed 3/26/19, effective 4/26/19)

WAC 110-15-0190 WCCC benefit calculations.

(1) The amount of care a consumer may receive is determined by ~~((DSHS))~~ DCYF at application or reapplication. Once the care is authorized, the amount will not be reduced during the eligibility period unless:

- (a) The consumer requests the reduction;
- (b) The care is for a school-aged child as described in subsection (3) of this section; or
- (c) Incorrect information was given at application or reapplication.

(2) To determine the amount of weekly hours of care needed, ~~((DSHS))~~ DCYF reviews:

(a) The consumer's participation in approved activities and the number of hours the child attends school, including home school, which will reduce the amount of care needed.

(b) In a two parent household, the days and times approved activities overlap, and only authorize care during those overlapping times. The consumer is eligible for full-time care if overlapping care totals one hundred ten hours in one month.

(c) ~~((DSHS))~~ DCYF will not consider the schedule of a parent in a two parent household who is not able to care for the child.

(3) Full-time care for a family using licensed providers is authorized when the consumer participates in approved activities at least one hundred ten hours per month:

(a) Twenty-three full-day units per month will be authorized when the child ~~((needs))~~ is in care five or more hours per day;

(b) Thirty half-day units per month will be authorized when the child ~~((needs))~~ is in care less than five hours per day;

(c) Forty-six half-day units per month will be authorized during the months of April, May, June, July, and August for a school-aged child who ~~((needs))~~ is in care for five or more hours ~~((of care;))~~ per day.

(4) Partial-day monthly unit. A single partial-day monthly unit per month will be authorized for a school-age child attending a licensed family home child care when the child is:

(a) Authorized for care with only one provider;

(b) Eligible for full-time authorization, but is in care less than five hours on a typical school day; and

(c) Expected to need care before and after school.

(d) Only one monthly unit may be authorized per child per month.

~~((d))~~ (5) Supervisor approval is required for additional days of care that exceeds twenty-three full days ~~((or)),~~ thirty half days, or one partial-day monthly unit per month;
~~((and~~

~~(e) Care cannot exceed sixteen hours per day, per child.~~

~~(4)):~~

(6) Full-time care for a family using in-home/relative providers (family, friends and neighbors) is authorized when the consumer participates in approved activities at least one hundred ten hours per month:

(a) Two hundred thirty hours of care will be authorized when the child ~~((needs))~~ is in care five or more hours per day;

(b) One hundred fifteen hours of care will be authorized when the child ~~((needs))~~ is in care less than five hours per day;

(c) One hundred fifteen hours of care will be authorized during the school year for a school-aged child who ~~((needs))~~ is in care less than five hours per day and the provider will be authorized for contingency hours each month, up to a maximum of two hundred thirty hours;

(d) Two hundred thirty hours of care will be authorized during the school year for a school-aged child who ~~((needs))~~ is in care five or more hours in a day; and

(e) Supervisor approval is required for hours of care that exceed two hundred thirty hours per month~~((; and (f)))~~.

~~((7))~~ (7) Care cannot exceed sixteen hours per day, per child.

~~((5))~~ (8) When determining part-time care for a family using licensed providers and the activity is less than one hundred ten hours per month:

(a) A full-day unit will be authorized for each day of care that exceeds five hours;

(b) A half-day unit will be authorized for each day of care that is less than five hours; and

(c) A half-day unit will be authorized for each day of care for a school-aged child, not to exceed thirty half days.

~~((6))~~ (9) When determining part-time care for a family using in-home/relative providers:

(a) Under the provisions of subsection (2) of this section, ~~((DSHS))~~ DCYF will authorize the number of hours of care needed per month when the activity is less than one hundred ten hours per month; and

(b) The total number of authorized hours and contingency hours claimed cannot exceed two hundred thirty hours per month.

~~((7-DSHS))~~ (10) DCYF determines the allocation of hours or units for families with multiple providers based upon the information received from the parent.

~~((8-DSHS))~~ (11) DCYF may authorize more than the state rate and up to the provider's private pay rate if:

(a) The parent is a WorkFirst participant; and

(b) Appropriate child care, at the state rate, is not available within a reasonable distance from the approved activity site. "Appropriate" means licensed or certified child care under WAC 110-15-0125, or an approved in-home/relative provider under WAC 110-16-0010. "Reasonable distance" is determined by comparing distances other local families must travel to access appropriate child care.

~~((9))~~ (12) Other fees ~~((DSHS))~~ DCYF may authorize to a provider are:

(a) Registration fees;

(b) Field trip fees;

(c) Nonstandard hours bonus;

(d) Overtime care to a licensed provider who has a written policy to charge all families, when care is expected to exceed ten hours in a day; and

(e) Special needs rates for a child.

(13) Subject to the conditions described in WAC 110-15-0020(7), a consumer with a certification period ending in March, April, or May 2020, who reapplies and is approved, may be authorized care at the same level as the prior authorization.

[AMENDATORY SECTION (Amending WSR 19-12-058, filed 5/31/19, effective 7/1/19)]

WAC 110-15-0205 Daily child care rates – Licensed or certified family home child care providers.

(1) **Base rate.** DCYF pays the lesser of the following to a licensed or certified family home child care provider:

(a) The provider's private pay rate for that child; or

(b) The maximum child care subsidy daily rate for that child as listed in the following table effective July 1, 2019:

		Infants (Birth - 11 mos.)	Enhanced Toddlers (12 - 17 mos.)	Toddlers (18 - 29 mos.)	Preschool (30 mos. - 6 yrs not attending kindergarten or school)	School-age (5 - 12 yrs attending kindergarten or school)
Region 1	Full- Day Half- Day	\$31.25 \$15.63	\$31.25 \$15.63	\$26.79 \$13.39	\$25.89 \$12.95	\$22.32 \$11.16
Spokane County	Full- Day Half- Day	\$32.59 \$16.29	\$32.59 \$16.29	\$27.68 \$13.84	\$26.79 \$13.39	\$26.79 \$13.39
Region 2	Full- Day Half- Day	\$32.14 \$16.07	\$32.14 \$16.07	\$29.46 \$14.73	\$26.79 \$13.39	\$25.00 \$12.50
Region 3	Full- Day Half- Day	\$42.86 \$21.43	\$42.86 \$21.43	\$37.50 \$18.75	\$36.25 \$18.13	\$29.38 \$14.69
Region 4	Full- Day Half- Day	\$54.37 \$27.19	\$54.37 \$27.19	\$48.70 \$24.35	\$41.07 \$20.54	\$32.31 \$16.16
Region 5	Full- Day Half- Day	\$37.07 \$18.54	\$37.07 \$18.54	\$34.90 \$17.45	\$31.25 \$15.63	\$26.79 \$13.39

Region 6	Full-Day	\$33.93	\$33.93	\$31.25	\$28.41	\$25.89
	Half-Day	\$16.96	\$16.96	\$15.63	\$14.20	\$12.95

(c) The maximum child care subsidy daily rate for that child as listed in the following table beginning July 1, 2020:

		Infants (Birth - 11 mos.)	Enhanced Toddlers (12 - 17 mos.)	Toddlers (18 - 29 mos.)	Preschool (30 mos. - 6 yrs not attending kindergarten or school)	School-age (5 - 12 yrs attending kindergarten or school)
Region 1	Full-Day	\$33.13	\$33.13	\$28.39	\$27.45	\$23.66
	Half-Day	\$16.56	\$16.56	\$14.20	\$13.72	\$11.83
Spokane County	Full-Day	\$34.54	\$34.54	\$29.34	\$28.39	\$28.39
	Half-Day	\$17.27	\$17.27	\$14.67	\$14.20	\$14.20
Region 2	Full-Day	\$34.07	\$34.07	\$31.23	\$28.39	\$26.50
	Half-Day	\$17.04	\$17.04	\$15.62	\$14.20	\$13.25
Region 3	Full-Day	\$45.43	\$45.43	\$39.75	\$38.43	\$31.14
	Half-Day	\$22.71	\$22.71	\$19.88	\$19.21	\$15.57
Region 4	Full-Day	\$57.63	\$57.63	\$51.62	\$43.54	\$34.25
	Half-Day	\$28.82	\$28.82	\$25.81	\$21.77	\$17.13
Region 5	Full-Day	\$39.29	\$39.29	\$37.00	\$33.13	\$28.39
	Half-Day	\$19.65	\$19.65	\$18.50	\$16.56	\$14.20
Region 6	Full-Day	\$35.96	\$35.96	\$33.13	\$30.11	\$27.45
	Half-Day	\$17.98	\$17.98	\$16.56	\$15.06	\$13.72

(2) Effective July 1, 2019, ~~((the half-day rate is increased for))~~ family home providers in all regions and for all ages ~~((to))~~ will receive a partial-day rate that is seventy-five percent of the full-day rate when:

(a) The family home provider provides child care services for the child during a morning session and an afternoon session. A morning session ~~((shall begin))~~ begins at any time after 12:00 a.m. and ends before 12:00 p.m. An afternoon session ~~((shall begin))~~ begins at any time after 12:00 p.m. and ends before 12:00 a.m.;

(b) The child is absent from care in order to attend school or pre-school;

(c) The family home provider is not entitled to payment at the full-day rate; and

~~((e))~~ (d) In no event ~~((shall))~~ is a child care provider ~~((be))~~ entitled to two partial-day rates in a month totaling one hundred fifty percent of the daily rate.

(3) Partial day monthly unit.

(a) One monthly unit per month will be authorized for a school-age child attending a licensed family home child care when the child is:

(i) Authorized for care with only one provider;

(ii) Eligible for a full-time authorization and is in care less than five hours on a typical full-day school day; and

(iii) Expected to need care before and after school.

(b) The monthly unit is prorated for partial months of authorization.

(c) Only one monthly unit per month may be authorized for a child.

Partial-Day Monthly Rates				
	Jul 1, 2019 – June 30, 2020		July 1, 2020 – June 30, 2021	
	Sept – March	April – August	Sept – June	July – August
Region 1	\$ 396.18	\$ 491.04	\$ 420.05	\$ 520.52
Spokane	\$ 475.48	\$ 589.38	\$ 503.88	\$ 624.58
Region 2	\$ 443.75	\$ 550.00	\$ 470.46	\$ 583.00
Region 3	\$ 521.58	\$ 646.36	\$ 552.82	\$ 685.08
Region 4	\$ 573.63	\$ 710.82	\$ 607.98	\$ 753.50
Region 5	\$ 475.48	\$ 589.38	\$ 503.88	\$ 624.58
Region 6	\$ 459.59	\$ 569.58	\$ 487.11	\$ 603.90

~~((3))~~ (4) The family home child care WAC ~~((110-300B-0010 and 110-300B-5550))~~ 110-300-0005 and 110-300-0355 allow providers to care for children from birth up to and including the end of their eligibility period after their thirteenth birthday. ~~((WAC 110-300B-0010 and 110-300B-5550 are superseded by WAC 110-300-0005 and 110-300-0355, respectively, effective August 1, 2019)).~~

~~((4))~~ (5) If the family home provider cares for a child who is thirteen years of age or older, the provider must follow WAC ~~((110-300B-0050 and 110-300B-5625))~~ 110-300-0030 and 110-300-0355. A child who is thirteen years of age or older at application must meet the special needs requirement according to WAC 110-15-0220. If the provider has an exception to care for a child who has reached the child's thirteenth birthday, the payment rate is the same as subsection (1) of this section and the five through twelve year age range column is used for comparison. ~~((WAC 110-300B-0050 and 110-300B-5625 are superseded by WAC 110-300-0300 and 110-300-0355, respectively, effective August 1, 2019)).~~

~~((5))~~ (6) DCYF pays family home child care providers at the licensed home rate regardless of their relation to the children (with the exception listed in subsection ~~((6))~~ (7) of this section).

~~((6))~~ (7) DCYF cannot pay family home child care providers to provide care for children in their care if the provider is:

- (a) The child's biological, adoptive or step-parent;
- (b) The child's legal guardian or the guardian's spouse or live-in partner; or
- (c) Another adult acting in loco parentis or that adult's spouse or live-in partner.

[AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)]

WAC 110-15-3770 Authorized SCC payments.

The SCC program may authorize payments to licensed or certified child care providers for:

(1) Basic child care either full-day or half-day, at rates listed in the chart in WAC ~~((170-290-0200 and 170-290-0205))~~ 110-15-0205:

(a) A full day of child care when a consumer's children need care for five to ten hours per day;

(b) A half day of child care when a consumer's children need care for less than five hours per day;

(c) Full-time care when the consumer participates in one hundred ten hours or more of approved activities per calendar month based on the consumer's approved activity schedule. Full-time care means twenty-three full day units if the child needs five or more hours of care per day or thirty half-day units if the child needs fewer than five hours of care per day;

(d) Beginning September 1, 2016, for school-aged children, ~~((DSHS))~~ DCYF will authorize and pay for child care as follows:

(i) ~~((DSHS))~~ DCYF will automatically increase half-day authorizations to full-day authorizations beginning the month of June when the child needs full-day care; and

(ii) ~~((DSHS))~~ DCYF will automatically decrease full-day authorizations to half-day authorizations beginning the month of September unless the child continues to need full-day care during the school year, until the following June. ~~((DSHS))~~ DCYF will send the consumer notification of the decrease as stated in WAC 170-290-0025. If the consumer's schedule has changed and the child continues to need full-day care during the school year, the consumer must request the increase and verify the need for full-day care.

(2) Effective July 1, 2019, family home providers in all regions and for all ages will receive a partial-day rate that is seventy-five percent of the full day rate when:

(a) Care is provided for the child during a morning session and an afternoon session. A morning session begins at any time after 12:00 a.m. and end before 12:00 p.m. An afternoon session begins at any time after 12:00 p.m. and end before 12:00 a.m.; and

(b) The provider is not entitled to payment at the full-day rate.

(3) A family home provider is not entitled to two partial-day rates totaling one hundred fifty percent of the daily rate.

(4) Partial day monthly unit.

(a) One monthly unit per month will be authorized for a school-age child attending a licensed family home child care when the child is:

(i) Authorized for care with only one provider;

(ii) Eligible for a full-time authorization and in care less than five hours of care on a typical school day; and

(iii) Expected to need care before and after school.

(b) The partial day monthly unit is prorated for partial months.

(c) Only one monthly unit per month may be authorized for a child.

(5) A registration fee, according to WAC ((170-290-0245)) 110-15-0245;

((3)) (6) Subsidy rates for five-year old children according to WAC ((170-290-0185)) 110-15-0185;

((4)) (7) The field trip/quality enhancement fees in WAC ((170-290-0247)) 110-15-0247;

((5)) (8) The nonstandard hours bonus in WAC ((170-290-0249)) 110-15-0249;
and

((6)) (9) Special needs care when the child has a documented special need and a documented need for a higher level of care, according to WAC ((170-290-0220, 170-290-0225, and 170-290-0230)) 110-15-0020, 110-15-0025, and 110-15-0230.