

NOTICE OF INTENT

Board of Elementary and Secondary Education

Part CLXV. Bulletin 139 – Louisiana Early Childhood Care and Development Fund Programs
Chapter 5. CCAP Household Eligibility
(LAC28:CLXV.509 and 515)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC28:CLXV. Bulletin 139 – *Louisiana Early Childhood Care and Development Fund Programs*. The revisions increase the daily Child Care Assistance Program (CCAP) reimbursement rates and increase the income eligibility for CCAP to 85% of the State Median Income.

**Title 28
EDUCATION**

Part CLXV. Bulletin 139 – Louisiana Child Care and Development Fund Programs

§509. Certification Requirements for Non-Categorically Eligible Households

A. To be certified as a CCAP household, households that are not categorically eligible for participation in CCAP must meet the following requirements:

1. include at least one child who is eligible for CCAP as provided in §503.A;
2. meet all criteria provided in §507.A;
3. have household income that does not exceed 85 percent of the state median income for a household of the same size. *Household income* is defined as:

3.a. – 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.28. and 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:43 (January 2016), amended LR 42:2175 (December 2016), LR 44:261 (February 2018), effective March 1, 2018, LR 45:900 (July 2019), LR 46:1373 (October 2020), LR 47:573 (May 2021), LR 48:

§515. Payments Made on Behalf of Households

A. The state maximum daily rates for CCAP care are as follows.

Child Care Provider Type	Regular Care	Regular Care for Toddlers	Regular Care for Infants	Special Needs Care Incentive	Special Needs Care Incentive for Toddlers	Special Needs Care Incentive for Infants
Type III Early Learning Center	\$31.50	\$42.00	\$68.00	\$39.69	\$52.92	\$85.68
School Child Care Center	\$24.00	\$24.00	\$24.00	\$30.24	\$30.24	\$30.24
Family Child Care Provider	\$29.00	\$42.00	\$61.00	\$36.54	\$52.92	\$76.86
In-Home Provider	\$25.00	\$25.25	\$26.65	\$31.50	\$31.82	\$33.58
Military Child Care Centers	\$31.50	\$42.00	\$68.00	\$39.69	\$52.92	\$85.68

B. – G. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:6 and 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2116 (October 2015), amended LR 42:44 (January 2016), LR 42:1870 (November 2016), LR 44:801 (April 2018), LR 45:1745 (December 2019), LR 47:573 (May 2021). LR 48:

COMPARISON DOCUMENT

Title 28

EDUCATION

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§515. Payments Made on Behalf of Households

A. The state maximum daily rates for CCAP care are as follows.

Child Care Provider Type	Regular Care	Regular Care for Toddlers	Regular Care for Infants	Special Needs Care Incentive	Special Needs Care Incentive for Toddlers	Special Needs Care Incentive for Infants
Type III Early Learning Center	\$30.00 <u>\$31.50</u>	\$31.05 <u>\$42.00</u>	\$35.65 <u>\$68.00</u>	\$37.80 <u>\$39.69</u>	\$39.12 <u>\$52.92</u>	\$44.92 <u>\$85.68</u>
School Child Care Center	\$24.00	\$24.00	\$24.00	\$30.24	\$30.24	\$30.24
Family Child Care Provider	\$25.00 <u>\$29.00</u>	\$25.75 <u>\$42.00</u>	\$29.65 <u>\$61.00</u>	\$31.50 <u>\$36.54</u>	\$32.45 <u>\$52.92</u>	\$37.36 <u>\$76.86</u>
In-Home Provider	\$25.00	\$25.25	\$26.65	\$31.50	\$31.82	\$33.58
Military Child Care Centers	\$30.00 <u>\$31.50</u>	\$31.05 <u>\$42.00</u>	\$35.65 <u>\$68.00</u>	\$37.80 <u>\$39.69</u>	\$39.12 <u>\$52.92</u>	\$44.92 <u>\$85.68</u>

B. – G. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:6 and 17:407.28.

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STATE BOARD OF ELEMENTARY AND SECONDARY EDUCATION
FAMILY IMPACT STATEMENT
(LA R.S. 49:953 and 972)

Person Preparing Statement: Ashley Townsend
Phone: 225-342-2503
Division: Policy Office
Rule Title: Part CLXV. Bulletin 139 – Louisiana Early Childhood Care and Development Fund Programs (LAC28:CLXV.509 and 515).

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

PLEASE RESPOND TO THE FOLLOWING:

1. WILL THE PROPOSED RULE AFFECT THE STABILITY OF THE FAMILY?
 No
 Yes
 Lacks sufficient information to determine
2. WILL THE PROPOSED RULE AFFECT THE AUTHORITY AND RIGHTS OF PARENTS REGARDING THE EDUCATION AND SUPERVISION OF THEIR CHILDREN?
 No
 Yes
 Lacks sufficient information to determine.
3. WILL THE PROPOSED RULE AFFECT THE FUNCTIONING OF THE FAMILY?
 No
 Yes
 Lacks sufficient information to determine
4. WILL THE PROPOSED RULE AFFECT FAMILY EARNINGS AND FAMILY BUDGET?
 No
 Yes
 Lacks sufficient information to determine
5. WILL THE PROPOSED RULE AFFECT THE BEHAVIOR AND PERSONAL RESPONSIBILITY OF CHILDREN?
 No
 Yes
 Lacks sufficient information to determine
6. IS THE FAMILY OR A LOCAL GOVERNMENT ABLE TO PERFORM THE FUNCTION AS CONTAINED IN THE PROPOSED RULE?
 No
 Yes
 Lacks sufficient information to determine

Signature of Contact Person: 

Date Submitted: 1/19/2022

STATE BOARD OF ELEMENTARY AND SECONDARY EDUCATION
POVERTY IMPACT STATEMENT
(LA R.S. 49:973)

Person Preparing Statement: Ashley Townsend

Phone: 225-342-2503

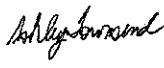
Division: Policy Office

Rule Title: Part CLXV, Bulletin 139 – Louisiana Early Childhood Care and Development Fund Programs (LAC28:CLXV.509 and 515).

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

PLEASE RESPOND TO THE FOLLOWING:

1. WILL THE PROPOSED RULE AFFECT THE HOUSEHOLD INCOME, ASSETS, AND FINANCIAL SECURITY?
 No
 Yes
 Lacks sufficient information to determine
2. WILL THE PROPOSED RULE AFFECT EARLY CHILDHOOD DEVELOPMENT AND PRESCHOOL THROUGH POSTSECONDARY EDUCATION DEVELOPMENT?
 No
 Yes
 Lacks sufficient information to determine
3. WILL THE PROPOSED RULE AFFECT EMPLOYMENT AND WORKFORCE DEVELOPMENT?
 No
 Yes
 Lacks sufficient information to determine
4. WILL THE PROPOSED RULE AFFECT TAXES AND TAX CREDITS?
 No
 Yes
 Lacks sufficient information to determine
5. WILL THE PROPOSED RULE AFFECT CHILD AND DEPENDENT CARE, HOUSING, HEALTH CARE, NUTRITION, TRANSPORTATION, AND UTILITIES ASSISTANCE?
 No
 Yes
 Lacks sufficient information to determine

Signature of Contact Person: 

Date Submitted: 1/19/2022

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, March 10, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person Preparing Statement:	<u>Ashley Townsend</u>	Dept.:	<u>LA Department of Education</u> <u>Board of Elementary &</u> <u>Secondary Education</u>
Phone:	<u>(225) 342-2503</u>	Office:	<u>Policy</u>
Return Address:	<u>P. O. Box 94064</u> <u>Baton Rouge, LA</u>	Rule Title:	<u>Part CLXV. Bulletin 139 -- Louisiana</u> <u>Early Childhood Care and Development</u> <u>Fund Programs (LAC28:CLXV.509 and</u> <u>515).</u>
		Date Rule Takes Effect:	<u>February 1, 2022</u>

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)

There will be a significant increase in costs to the Louisiana Department of Education (LDE) associated with the proposed increases to the Child Care Assistance Program (CCAP) reimbursement rates and income eligibility. The amount of the increase will depend upon the number of children enrolled in the program and is indeterminable. CCAP is funded with a combination of state general fund (SGF) and federal funding through the Child Care and Development Fund (CCDF). Total expenditures are limited by the amount of state appropriations and federal grant allocations in any given year. To the extent the proposed revisions cause demand for program services to exceed available funding, the LDE will need to restrict services through waitlisting or seek alternative means of financing to bridge any funding shortfalls.

The proposed revisions increase the yearly CCAP reimbursement rates per child from approximately \$8,500 to approximately \$12,500. In addition, the proposed revisions increase the income eligibility for households participating in CCAP from 65 percent to 85 percent of the State Median Income (SMI). This would increase the number of eligible applicants, and modeling suggests that approximately 3,800 additional children will participate in the program. Increased demand may lead to additional workload for LDE staff to assist in processing CCAP applications.

Although the projected cost of the proposed revisions is indeterminable, a narrow cost analysis presented to the Early Childhood Care and Education (ECCE) Advisory Council estimated the average cost per month for February through April 2022 would increase from \$16.4 M to \$19.9 M. On an annual basis, this would total approximately \$42 M per year, although the use of a waitlist will reduce this amount without a corresponding growth in appropriation. In addition, the narrow cost analysis estimated that under the proposed CCAP rates, waitlisting will begin in April 2022.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)

The proposed revisions will not have an effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed revisions will benefit child care providers who receive increased CCAP payments. In addition, families will benefit from expanded access to child care. However, to the extent that the proposed revisions reduce the number of children served by the program, some child care

providers may experience reduced income if qualified families are unable to enroll their children in the program. Families may also face negative economic impacts in comparison to participating families if they are waitlisted due to limited CCAP funding.

The proposed revisions increase the yearly CCAP payment rates per child from approximately \$8,500 to approximately \$12,500. Child care providers would receive an additional \$4,000 per year on average for each CCAP-enrolled child currently in their care. Child care providers will receive an average \$12,500 per year for each new child that enrolls due to the expanded eligibility.

CCAP requires enrolled families to pay a copayment determined through a sliding fee scale based on household size and income. Currently, copayments can be waived and paid instead with federal COVID-19 relief funding. When this funding is no longer available, the overall cost of copayments to households will depend on the size and income of those households and is indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions may impact the income of CCAP participant child care center employees; however, these amounts are indeterminable. The revisions may also incentivize child care providers to begin participating in CCAP, increasing competition amongst CCAP providers.

DocuSigned by

Beth Scioneaux

Signature of Agency Head or Designee

Alan M. Bortner

Legislative Fiscal Officer or Designee

Beth Scioneaux, Deputy Superintendent for Management and Finance

Typed Name and Title of Agency Head or Designee

2/7/2022

Date of Signature

2/10/22

Date of Signature

LFO 10/04

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed revisions increase the daily Child Care Assistance Program (CCAP) reimbursement rates and increase the income eligibility for CCAP from 65% to 85% of the State Median Income (SMI).

- B. Summarize the circumstances that require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Per federal regulations, the Louisiana Department of Education must certify that the Child Care Assistance Program (CCAP) has payment rates that ensure equal access, which means children from low-income families who qualify for a subsidy (CCAP) can access care comparable to children who are not eligible for the subsidy. The increased reimbursement rates improve equal access opportunities by providing funding at a level that more closely aligns to the actual cost of delivering high-quality early childhood care and education. The eligibility change allows more access to CCAP to improve educational outcomes and allows families to go to work and/or attend school.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session.

- 1. Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

Yes. CCAP is funded with state general fund and federal funding through the Child Care and Development Fund.

- 2. If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

- (a) _____ Yes. If yes, attach documentation.
- (b) X NO. If no, provide justification as to why this rule change should be published at this time.

Per the narrow cost analysis presented to the Early Childhood Care and Education Advisory Council, the proposed rates will more closely align with the cost of child care. The department will require additional financial resources, subject to appropriation, in order to serve the eligible population. Otherwise, eligible families will be waitlisted until a slot becomes available under the funded cap.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY21-22	FY22-23	FY23-24
PERSONAL SERVICES	UNKNOWN	UNKNOWN	UNKNOWN
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES	INCREASE	INCREASE	INCREASE
EQUIPMENT			
<u>MAJOR REPAIR & CONSTR.</u>			
<u>POSITIONS (#)</u>			
TOTAL	INCREASE	INCREASE	INCREASE

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

There will be a significant increase in costs to the Louisiana Department of Education (LDE) associated with the proposed increases to the Child Care Assistance Program (CCAP) reimbursement rates and income eligibility. The amount of the increase will depend upon the number of children enrolled in the program and is indeterminable. CCAP is funded with a combination of state general fund (SGF) and federal funding through the Child Care and Development Fund (CCDF). Total expenditures are limited by the amount of state appropriations and federal grant allocations in any given year. To the extent the proposed revisions cause demand for program services to exceed available funding, the LDE will need to restrict services through waitlisting or seek alternative means of financing to bridge any funding shortfalls.

The proposed revisions increase the yearly CCAP reimbursement rates per child from approximately \$8,500 to approximately \$12,500. In addition, the proposed revisions increase the income eligibility for households participating in CCAP from 65 percent to 85 percent of the State Median Income (SMI). This would increase the number of eligible applicants, and modeling suggests that approximately 3,800 additional children will participate in the program. Increased demand may lead to additional workload for LDE staff to assist in processing CCAP applications.

Although the projected cost of the proposed revisions is indeterminable, a narrow cost analysis presented to the Early Childhood Care and Education (ECCE) Advisory Council estimated the average cost per month for February through April 2022 would increase from \$16.4 M to \$19.9 M. On an annual basis, this would total approximately \$42 M per year, although the use of a waitlist will reduce this amount without a corresponding growth in appropriation. In addition, the narrow cost analysis estimated that under the proposed CCAP rates, waitlisting will begin in April 2022.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY21-22	FY22-23	FY23-24
STATE GENERAL FUND	INCREASE	INCREASE	INCREASE
AGENCY SELF-GENERATED	-0-	-0-	-0-
DEDICATED			
FEDERAL FUNDS	INCREASE	INCREASE	INCREASE
OTHER (Specify)			
TOTAL	INCREASE	INCREASE	INCREASE

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

The narrow cost analysis presented to the ECCE Advisory Council estimated that under the proposed CCAP rates, waitlisting will begin in April 2022. Available seats may be limited and possibly reduced if additional funds are not obtained.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

The proposed revisions will not result in costs or savings to local governmental units.

2. Indicate the sources of funding of the local governmental unit that will be affected by these costs or savings.

The proposed revisions will not impact sources of funding of local governmental units.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

The proposed revisions will not have an effect on revenue collections of state or local governmental units.

REVENUE INCREASE/DECREASE	FY21-22	FY22-23	FY23-24
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
TOTAL	-0-	-0-	-0-

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

N/A

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

The proposed revisions will benefit child care providers who receive increased CCAP payments. In addition, families will benefit from expanded access to child care. However, to the extent that the proposed revisions reduce the number of children served by the program, some child care providers may experience reduced income if qualified families are unable to enroll their children in the program. Families may also face negative economic impacts in comparison to participating families if they are waitlisted due to limited CCAP funding.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

The proposed revisions increase the yearly CCAP payment rates per child from approximately \$8,500 to approximately \$12,500. Child care providers would receive an additional \$4,000 per year on average for each CCAP-enrolled child currently in their care. Child care providers will receive an average \$12,500 per year for each new child that enrolls due to the expanded eligibility.

CCAP requires enrolled families to pay a copayment determined through a sliding fee scale based on household size and income. Currently, copayments can be waived and paid instead with federal COVID-19 relief funding. When this funding is no longer available, the overall cost of copayments to households will depend on the size and income of those households and is indeterminable.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed revisions may impact the income of CCAP participant child care center employees; however, these amounts are indeterminable. The revisions may also incentivize child care providers to begin participating in CCAP, increasing competition amongst CCAP providers.