

-Preface-

Department of Economic Security

Five – Year Review Reports

A.R.S. § 41-1056 requires that at least once every five years, each agency shall review its administrative rules and produce reports that assess the rules with respect to considerations including the rule’s effectiveness, clarity, conciseness and understandability. The reports also describe the agency’s proposed action to respond to any concerns identified during the review. The reports are submitted in compliance with the schedule provided by the Governor’s Regulatory Review Council. A.R.S. § 18-305, enacted in 2016, requires that statutorily required reports be posted on agency’s website.

Arizona Department of Economic Security

Five-Year Review Report

Title 6. Economic Security

Chapter 5. Social Services

Article 49. Child Care Assistance

April 28, 2017

Introduction

Title 6, Chapter 5, Article 49 (“Article 49”) specifies the requirements for a statewide subsidy program to assist eligible families with child care costs, enabling parents to participate in employment and specific education and training activities related to employment, or in certain other circumstances when parents are unable to provide care. These rules specify the procedures for this program, including the application process guidelines, eligibility guidelines, and termination of assistance guidelines.

CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY

Child Care Assistance

A. STATUTORY AUTHORITY

General Authority: A.R.S. § 41-1954(A)(3).

Specific Authority: A.R.S. §§ 46-802, 46-805, and 46-809

B. OBJECTIVES

R6-5-4901. Definitions

The objective of this rule is to ensure uniform understanding of the terminology used by the Department with respect to the Child Care Assistance Program. The purpose of this rule is to define the terms used in A.A.C. Title 6, Chapter 5, Article 49.

R6-5-4904. Access to Child Care Assistance

The objective of this rule is to ensure the accessibility of Child Care Assistance to the general public. The purpose of this rule is to inform the general public of how they may access Child Care Assistance by application, by request, and by referral from DES Jobs Program, Department of Child Safety (DCS), and from Tribal Child Protective Services (CPS) programs.

R6-5-4905. Initial Eligibility Interview

The objective of this rule is to ensure that the public understands the process used by the Department to conduct an initial eligibility interview for Child Care Assistance. The purposes of this rule are to describe various interview methods that are available to meet the needs of applicants (e.g., office visit, telephone, or home visit); and to specify the information the Department representative must provide to the applicant regarding

the terms, conditions, obligations and limitations of the Child Care Assistance program, client appeal rights, and Departmental procedures pertinent to the eligibility determination.

R6-5-4906. Verification of Eligibility Information

The objective of this rule is to ensure that the eligibility information is verified by the Department for the purpose of Child Care Assistance. The purposes of this rule are to describe methods the Department may use to verify information; to identify the client as the responsible party regarding provision of required information; to specify the time frame in which the information must be verified; and to prescribe that the penalty for noncompliance is denial of the application.

R6-5-4907. Withdrawal of an Application

The objective of this rule is to ensure that the applicant has a right to withdraw the application for Child Care Assistance. The purpose of this rule is to describe the withdrawal procedures.

R6-5-4908. Child Care Assistance Approvals and Denials

The objective of this rule is to ensure that the eligibility determination to approve or deny the Child Care Assistance application takes place within 30 days of the application file date or referral receipt date. The purposes of the rule are to describe the actions the Department shall take to approve Child Care Assistance and to specify the information the Department is required to include in the approval notice.

R6-5-4909. 12-Month Review

The objective of this rule is to ensure that the Department reviews Child Care Assistance eligibility factors at least once every 12 months. The purposes of this rule are to permit the Department to conduct more frequent reviews at the Department's option and to ensure the Department informs the recipient of the need for a review at least 30 days prior to the review due date. The rule explains the Department may deny, reduce, or terminate assistance when the client refuses or fails to cooperate with the Department.

R6-5-4910. Reinstatement of Assistance

The objective of this rule is to ensure the reinstatement of Child Care Assistance when it is appropriate. The purpose of this rule is to specify under what conditions the Department shall reinstate assistance after termination of child care benefits and the time frame in which the Department shall reinstate Child Care Assistance if one of the specified conditions occurs.

R6-5-4911. General Eligibility Criteria

The objective of this rule is to ensure that the public understands the general eligibility determination requirements for Child Care Assistance. The purposes of this rule are to inform the applicant and recipient of their responsibility to comply with the Department's procedural requirements and to provide the Department with current, complete, and truthful information. The rule explains that denial, termination, or reduction of assistance will occur if the client refuses or fails to cooperate with the Department. The rule defines the general eligibility criteria for the receipt of Child Care Assistance and informs the public of the definitions for an eligible applicant and an

eligible child for the purpose of determining Child Care Assistance eligibility. The rule lists allowable types of child care providers for DES Child Care Assistance and describes under what conditions the Department is prohibited from authorizing Child Care Assistance to a noncertified relative provider.

R6-5-4912. Eligible Activity or Need

The objective of this rule is to specify all approved eligible activities for Child Care Assistance. The purposes of this rule are to identify all eligible activities and needs, and to explain the verification process of eligible activities.

R6-5-4913. Applicants and Recipients as Child Care Providers

The objective of this rule is to designate a special circumstance where child care providers may also receive Child Care Assistance to care for their own children. The purpose of this rule is to identify the conditions under which the child care provider may receive Child Care Assistance.

R6-5-4914. Income Eligibility Criteria

The objective of this rule is to ensure that the public understands the income eligibility determination requirements for Child Care Assistance. The purposes of this rule are to identify the types of applicants who may receive Child Care Assistance with or without regard to their income. The rule specifies that 165 percent of the Federal Poverty Level for the family size is the income maximum and lists income types that the Department considers countable or excluded and how they are calculated when determining eligibility. The rule explains allocation procedures and describes the requirements and procedures of income verification.

R6-5-4915. Fee Level and Copayment Assignment

The objective of this rule is to explain the placement of eligible families at an appropriate fee level that may result in copayment assignment and the requirement associated with the copayment. The purpose of this rule is to ensure that the placement is made utilizing the chart reflected in Appendix A, and to explain the consequence of not fulfilling the copayment requirement.

R6-5-4916. Special Eligibility Criteria

The objective of this rule is to ensure that the public understands the Temporary Assistance for Needy Families (TANF) related eligibility requirements for Child Care Assistance. The purposes of this rule are to explain the circumstances under which eligible applicants would qualify for the Transitional Child Care Assistance program; specify the prohibition against receipt of Transitional Child Care for Cash Assistance case closure due to sanction; to specify that the Department treat Cash Assistance Grant Diversion participants as Cash Assistance participants during the three months covered by the Diversion payment, and that Diversion Participants are eligible for Transitional Child Care following the three month Diversion period provided that Transitional Child Care Criteria are met.

R6-5-4917. Waiting List for Child Care Assistance

The objective of this rule is to establish criteria for a waiting list for Child Care Assistance and to prioritize child care assistance for different eligibility categories. The purposes of this rule are to identify applicants who may be placed on the waiting list; preclude the Department from placing certain types of applicants on the waiting list; describe the criteria for prioritizing applicants subject to the waiting list and the

subsequent release of those applicants; and provide the Department with a remedy when applicants are released from the waiting list in error.

R6-5-4918. Authorization of Child Care Assistance

The objective of this rule is to establish criteria when authorizing Child Care Assistance. The purposes of this rule are to identify the conditions under which authorizations can be made; describe the method the Department uses to determine units and length of care the client receives per month for each child; and to explain the maximum number of children that may apply to certain categories of Child Care Assistance.

R6-5-4919. Time Limit for Child Care Assistance

The objective of this rule is to explain that Child Care Assistance is time-limited. The purposes of this rule are to define who is and who is not subject to the time limit; describe the method for calculating and applying the sixty-month time limit; state the start date to begin tracking the time-limited Child Care Assistance; permit the Department to grant six or twelve-month extensions on the time limit if the client demonstrates efforts toward self-sufficiency; and to define the qualifications for an extension of Child Care Assistance upon expiration of each child's limit.

R6-5-4920. Denial or Termination of Child Care Assistance

The objective of this rule is to ensure that the public understands the circumstances when Child Care Assistance is denied or terminated. The purpose of this rule is to identify situations in which the Department shall deny or terminate Child Care Assistance and provide written notification of ineligibility to the client.

R6-5-4921. Notification Requirements

The objective of this rule is to establish notification requirements. The purposes of this rule are to specify the time frames the Department shall follow when providing written notice to the client regarding a decision on an application, a positive action, a negative action, or a change in the amount of authorized units based on a change in need; identify situations in which the Department is not required to provide notice on a negative action; and identify the information the Department must provide to the client in a written notice.

R6-5-4923. Overpayments

The objective of this rule is to ensure overpayments are collected when necessary. The purposes of this rule are to require the Department pursue collection of all client and provider caused overpayments; require the Department to prepare an overpayment report within 90 days of when the overpayment is discovered; require the Child Care Administration refer the overpayment report to the Department's Office of Special Investigations if fraud is suspected to be the cause of the overpayment; preclude the Department from attempting to recover an overpayment from a person who is not a current recipient when the overpayment was not the result of fraud and the Department has exhausted reasonable efforts to collect; and to specify whom the Department shall pursue in the collection of various types of overpayments.

R6-5-4924. Appeals

The objective of this rule is to ensure that the public understands the client's right to appeal the Department's adverse actions and that all appeals are processed according to the requirements in a timely and appropriate manner. The purposes of the rule are to

identify the Department actions that an applicant is entitled to contest through a hearing; specify the client's time frame for filing a written request for a fair hearing; describe how the file date on a hearing request is determined; inform the public that any document mailed by the Department is considered as having been given to the addressee on the date it is mailed to the addressee's last known address; advise the public that the Office of Appeals shall deny any hearing request that is not filed in a timely manner; require the Child Care Administration to prepare and forward a prehearing summary to the Office of Appeals within ten work days of receiving the request; require the Department to mail the appellant a copy of the summary; require the Department to continue assistance at the current level if a request for appeal has been filed within ten days of the negative action notice date and to provide exceptions to this requirement; require the Department to postpone the negative action until receipt of an official written decision in favor of the Department and to list exceptions to this requirement; and to require that the Department prepare an overpayment for any assistance the family received in excess of the correct benefit amount while the hearing decision was pending.

R6-5-4925. Maximum Reimbursement Rates For Child Care

The objective of this rule is to establish the maximum reimbursement rate that the Department will pay to Child Care Providers by district and age range of child. The purposes of this rule are to indicate the gross income maximums and copay assignments for each fee level, and to indicate the maximum reimbursement rates for child care providers based on the fee level assigned.

C. EFFECTIVENESS

The rules in Title 6, Chapter 5, Article 49, need amendments to be effective in meeting the requirements established by the Child Care and Development Block Grant (CCDBG) Act of 2014 and associated regulations at 45 CFR Part 98. Amendments are needed to align with current state statutes, policies, and practices.

The following amendment is required wherever it appears:

- Amend the words “CPS” throughout the article to conform to the provisions of A.R.S. § 8-451 that created the Department of Child Safety (DCS).

R6-5-4901. Definitions

The following definitions should be revised or added to make this rule clear, concise, understandable, and effective.

- Add definition of “Application”.
- Add “Approved Medical Personnel” to include nurse practitioners and physician’s assistants in addition to physicians, psychiatrists, and psychologists.
- Add definition of “Business day”.
- Amend “CPS or Child Protective Services” to include both DCS and Tribal CPS.
- Add definition of “Employment”.
- Revise “Gap in employment” to be consistent with federal law requiring states to continue assistance for a minimum of three months following loss of eligible activity.
- Add definition of “Good cause”.
- Add definition of “Self-employment”.

R6-5-4904. Access to Child Care Assistance

The rule would be more effective if updated to make the following changes to conform to current federal and state statute, policies and practice.

- Add “via another Department approved method” as an additional method of filing an application.
- Add “written or electronic” as approved signatures on the application.

R6-5-4905. Initial Eligibility Interview

The rule would be more effective if updated to make the following change to conform to current federal and state statute, policies and practice.

- Remove the requirement of face-to-face interviews when certain circumstances are met. This would give the Department the ability to utilize the most effective method of conducting an interview such as an interview by phone.

R6-5-4906. Verification of Eligibility Information

The rule would be more effective if updated to make the following change to conform to current federal and state statute, policies and practice.

- Move the verification requirements from the section for the Eligible Activity or Need to this section.

R6-5-4908. Child Care Assistance Approvals and Denials

The rule would be more effective in giving clear guidance to the public if updated:

- Combine this section with the section R6-5-4920.

R6-5-4909. 12-Month Review

The rule would be more effective if updated to make the following changes to conform to current federal and state statute, policies and practice.

- Adjust the language “at least” to state “no more than” to be in compliance with current A.R.S. § 46-803(L).
- Incorporate the exiting threshold of 85 percent State’s Median Income (SMI) to be in compliance with current A.R.S. § 46-803(B), (C), (D), and (F).
- Modify R6-5-4909(G) to state that an interview is mandatory when re-determining eligibility.

R6-5-4911. General Eligibility Criteria

The rule would be more effective if updated to make the following change. It would help the public to understand the rule.

- Remove any requirements related to changes from this section and create a new section specifying change reporting requirements and procedures.
- Adjust the reporting requirement from two to five business days from the date the change becomes known to be more practicable.
- Update U.S. Immigration and Naturalization Services to its current name, U.S. Citizenship and Immigration Services.

R6-5-4912. Eligible Activity or Need

The rule would be more effective if updated to make the following changes to conform to current federal and state statute, policies and practice.

- Revise the definition for eligible educational activities, educational level, and the number of months a client can receive Child Care Assistance for educational purposes to conform to state statute.
- Clarify that educational activities that are not Jobs Program-approved are eligible activities for Child Care Assistance if criteria for Child Care Assistance educational activities are met, to conform to state statute.
- Revise the Gaps in Employment section to effectively reflect the CCDBG Act of 2014 requirements. This section should be placed in the proposed change section.
- Move the Verification of Eligible Activity section to R6-5-5206, Verification of Eligible Information.

R6-5-4913. Applicants and Recipients as Child Care Providers

The rule would be more effective if updated to make the following change to conform to current policies and practice.

- Clarify when a client can receive Child Care Assistance as a child care provider.

R6-5-4914. Income Eligibility Criteria

The rule would be more effective if updated to make the following changes to conform to current federal and state statute, policies and practice.

- Establish reduced income maximums for Child Care Assistance when sufficient monies are not appropriated or available to pay for all eligibility levels.
- Clarify that advances or draws from a company, corporation, or business partnership are countable income for child care purposes.
- Clarify various elements of countable and excludable income and income calculation processes for child care purposes.

R6-5-4915. Fee Level and Copayment Assignment

The rule would be more effective if updated to make the following change to conform to current federal and state statutes, policies and practice.

- Clarify when a family is exempt from copayment and that penalties for nonpayment do not apply to Jobs and Cash Assistance participants when care is needed in support of TANF work activities or to support DCS-referred families who need care per a DCS case plan.

R6-5-4916. Special Eligibility Criteria

The rule would be more effective if updated to make the following change to conform to current federal and state statute, policies and practice.

- Clarify that sanctioned former Cash Assistance recipients can receive Transitional Child Care (TCC) if they are employed, to align with current practice and to avoid unnecessary administrative burden.

R6-5-4918. Authorization of Child Care Assistance

The rule would be more effective if updated to make the following changes to conform to current federal and state statute, policies and practice.

- Limit child care service authorization to 23 units per child rather than 31.
- Clarify that children are not eligible for DES child care assistance when school is otherwise available for grades 1-12 during a regular school day.

R6-5-4920. Denial or Termination of Child Care Assistance

The rule would be more effective if updated to make the following changes to conform to current federal and state statute, policies and practice.

- Add the income maximum of 85 percent SMI when terminating Child Care Assistance during the eligibility period.
- Move the entire section to combine the section with R6-5-4908, Child Care Assistance Approvals and Denials.

R6-5-4923. Overpayments

The rule would be more effective if updated to make the following change to conform to current policies and practice.

- Revise the definition for “Date of Discovery” of an overpayment. The “Date of Discovery” is the date the Department validates it, not the date it is determined.

R6-5-4924. Appeals

The rule would be more effective if updated to make the following changes to conform to current federal and state statute, policies and practice.

- Identify the circumstances under which applicants and recipients are not entitled to a hearing to challenge benefit adjustments.
- Disallow continuation of assistance pending the outcome of an appeal when the appellant is suspected of committing an Intentional Program Violation (IPV).
- Add sections to provide hearing policies to supplement Article 75 of this chapter, Appeal and Hearing Procedures for Adverse Action.
- Add a separate section within this Article to address IPV.

Appendices A and B

Tables for Child Care Assistance Gross Monthly Income Eligibility Chart, Fee Schedule, and Maximum Reimbursement Rates for Child Care should be updated with

the current information to conform to current federal and state statute, policies and practice.

D. CONSISTENCY

Except for the rules listed below, the rules in Title 6, Chapter 5, Article 49 are consistent with federal and state law and regulations. With the following amendments, the rules in Article 49 will be consistent with the corresponding federal law, Public Law No. 113-186, the Child Care & Development Fund (CCDF) regulations at 45 CFR 98 and A.R.S. § 46-801 through A.R.S. § 46-810.

Title 6, Chapter 5, Article 49 is undergoing the formal rulemaking process. The Department anticipates completing changes to these rules this fall. The Department is operating under policies and procedures that align with federal and state statute and regulation until the amended rule is finalized. Additionally, the application form made available to Child Care Assistance applicants contains the current information that applicant's need to pursue participation in the program

The following rules are in need of a technical correction to change "CPS" or "Child Protective Services" to "DCS" or "Department of Child Safety" and include both DCS and Tribal CPS in language regarding the Department of Child Safety as created by A.R.S. § 8-451.

R6-5-4901. Definitions

R6-5-4914. Income Eligibility Criteria

R6-5-4915. Fee Level and Copayment Assignment

R6-5-4917. Waiting List for Child Care Assistance

R6-5-4918. Authorization of Child Care Assistance

R6-5-4919. Time Limit for Child Care Assistance

The CCDF regulations at 45 CFR 98.21 specify a lead agency shall re-determine a child's eligibility for child care services no sooner than 12 months following the initial determination, stipulate care must be authorized for a minimum of 12 months, and prohibit a reduction in services prior to re-determination. State agencies may opt to discontinue services following a job loss or cessation of eligible activity only after allowing a minimum of three full calendar months continued service to enable the parent/caretaker to engage in a job search or obtain another eligible activity.

Additionally, CCDBG Act of 2014 allows families whose income does not exceed 85 percent of the SMI to remain eligible. This created changes in the income maximum for child care assistance and necessitated a fee level that is equal to or less than 85 percent of the SMI to represent a maximum income for ongoing recipients.

The following rules are in need of amendment to comply with CCDF regulations at 45 CFR 98.21 and changes in A.R.S. § 46-803 resulting from the requirements of the CCDBG Act of 2014.

R6-5-4901. Definitions

R6-5-4909. 12-Month Review

R6-5-4912. Eligible Activity or Need

R6-5-4914. Income Eligibility Criteria

R6-5-4919. Time Limit for Child Care Assistance

Appendix A. Child Care Assistance Gross Monthly Income Eligibility Chart and Fee Schedule

Appendix B. Maximum Reimbursement Rates for Child Care

R6-5-4901. Definitions

Some definitions within this rule are no longer consistent with state law, federal law, and Department policy regarding Child Care Assistance. Terms developed due to the CCDF Reauthorization Act of 2014 requirements are not yet listed or defined in this rule. Additionally, terms not used within the rules are needlessly defined and should be eliminated.

R6-5-4909. 12-Month Review

Due to the CCDF Reauthorization Act of 2014 requirements and changes to A.R.S. § 46-803 (L), this rule is not consistent with state law, federal CCDF regulations, and Department policy regarding the frequency the Department may conduct a review of the client's information.

R6-5-4912. Eligible Activity or Need

This rule is inconsistent with both state and federal law. The CCDF Reauthorization Act of 2014 requirements prompted changes in Department policy regarding Child Care Assistance after a loss of employment or other eligible activity. Services may now continue for up to three full calendar months after a loss of eligible activity in accordance with the Act. Additionally, the limits imposed by this rule on an applicant's educational level and the number of months a person can receive Child Care Assistance for educational purposes do not reflect the changes implemented as prescribed by A.R.S. § 46-803(H).

R6-5-4914. Income Eligibility Criteria

This rule is no longer consistent with state law, federal law, and Department policy regarding Child Care Assistance due to the CCDBG Act of 2014 and changes in A.R.S. § 46-803 resulting from the requirements of the CCDBG Act of 2014.

The CCDBG Act of 2014, requires that a child shall reside with a family whose income does not exceed 85 percent of the SMI to be eligible for services. These requirements increase the maximum income limit to 85 percent of the SMI for ongoing recipients and make lead agencies take into account irregular income fluctuations. Department policy regarding earned income calculation is now based on the most recent paystub rather than the last 30 days of paystubs, and new income is counted immediately instead of waiting ten days after the first full check. Six months of records are now required for self-employment income to account for irregular income fluctuations.

R6-5-4919. Time Limit for Child Care Assistance

The CCDF Reauthorization Act of 2014 requirements necessitate a change from a six-month extension to a 12-month extension once a child has exhausted the 60-month time limit for Block Grant child care to align with the 12-month re-determination time-frame. This rule is in need of a minor correction to relate the actions required to demonstrate efforts toward self-sufficiency more closely with eligible activities for Child Care Assistance.

Appendix A. Child Care Assistance Gross Monthly Income Eligibility Chart and Fee Schedule

The CCDF Reauthorization Act of 2014 requirements necessitate adding Fee Level 7 to represent a maximum income for ongoing recipients that is equal to or less than 85 percent of the SMI.

Appendix B. Maximum Reimbursement Rates for Child Care

The CCDF Reauthorization Act of 2014 requirements necessitate adding Special Needs Rates for child care providers.

The following rules are consistent with both state and federal laws regarding Child Care Assistance, but do not accurately reflect current Departmental policies or procedures.

R6-5-4904. Access to Child Care Assistance

R6-5-4905. Initial Eligibility Interview

R6-5-4906. Verification of Eligibility Information

R6-5-4911. General Eligibility Criteria

R6-5-4913. Applicants and Recipients as Child Care Providers

R6-5-4916. Special Eligibility Criteria

R6-5-4917. Waiting List for Child Care Assistance

R6-5-4918. Authorization of Child Care Assistance

R6-5-4904. Access to Child Care Assistance

The Department no longer accepts a verbal request for Child Care Assistance and the rule is not consistent with Department policy regarding verbal requests for Child Care Assistance.

R6-5-4905. Initial Eligibility Interview

The rule is not consistent with Department policy regarding when a telephone interview may be conducted.

R6-5-4906. Verification of Eligibility Information

The rule is not consistent with Department policy regarding verification via data verification services utilized by the client's employer.

R6-5-4911. General Eligibility Criteria

The rule is not consistent with Department policy regarding time-frame requirements for change reporting. In practice, the Department allows clients five business days to report a change, rather than two business days.

R6-5-4913. Applicants and Recipients as Child Care Providers

The rule is consistent with current program policy and practice in listing the instances where a DES contracted child care provider may also receive Child Care Assistance for his or her own children in care, but the rule fails to mention the prohibitions against payment as a child care provider when the payment recipient is the spouse of the provider or is a member of the provider's corporation.

R6-5-4916. Special Eligibility Criteria

Department policy no longer requires the review of the Cash Assistance closure reasons to identify sanctioned status for those applicants who are potentially eligible for TCCA.

R6-5-4917. Waiting List for Child Care Assistance

The rule is not consistent with Department policy regarding time-frame requirements for change reporting. In practice, the Department allows clients five business days to report a change, rather than two business days.

R6-5-4918. Authorization of Child Care Assistance

The rule is not consistent with Department policy regarding the maximum allowable units of child care per child, per month. Procedurally, the Department no longer limits the number of hours of Child Care Assistance to the client's stated hours needed to perform self-employment activities.

E. ENFORCEMENT

The Department enforces these rules to the extent that they do not conflict with state or federal law. Due to the CCDBG Act of 2014, CCDF federal regulations were updated in September 2016. The following rules are not enforced, due to the conflicts with the federal regulations as well as Arizona Revised Statutes.

R6-5-4904. Access to Child Care Assistance

The Department no longer waives the application requirement for cash assistance participants who need child care for employment. As a result of lifetime limits for receiving Cash Assistance being reduced from 24 to 12 months, the Department requires Cash Assistance participants who need Child Care Assistance for employment activities to complete an application prior to determining eligibility.

R6-5-4912. Eligible Activity or Need

The Department no longer enforces the limit based on the client's educational level or the lifetime limit of 24 months of Child Care Assistance for education and training purposes. A.R.S. § 46-803(H) provides supplemental child care for education and training when the education and training is reasonably related to employment goals, and the client is working at least a monthly average of 20 hours per week. S.B. 1357 established the statute in 1997 and, at that time, limited child care assistance for postsecondary education activities for up to 24 months or an equivalent of an associate degree. In 1998, H.B. 2620 changed the statutes, and the 24-month limitation was removed. The rule has not been adjusted to reflect the change.

The Department no longer enforces additional assistance for up to 60 days after clients stop employment activities. Due to the CCDBG Reauthorization Act of 2014, the

Department expanded the time-frames for additional assistance for clients who lose their eligible activity for three full calendar months, or through the 12-month re-determination date, whichever occurs first.

R6-5-4914. Income Eligibility Criteria

The Department no longer requires employed clients to provide a 30 day period of income verification. This requirement was viewed as administratively burdensome for clients and child care staff resulting in the decision to streamline this process by requiring clients to provide their most recent pay stub for employment verification purposes.

The Department no longer enforces portions of income calculation that require the Department to exclude income until the date the first full payment is received. In response to requirements of the CCDBG Reauthorization Act of 2014, the Department considers new income sources available to the family immediately for determining eligibility or prioritization on the waiting list.

F. CLEAR, CONCISE AND UNDERSTANDABLE

The Department believes that the issues identified in Section C of this report as well as the inconsistencies identified in Section D of this report adversely impact the clarity, conciseness, and understandability of the listed rules. Other than those issues previously identified, the Department believes the rules in Article 49 are clear, concise, and understandable.

G. WRITTEN CRITICISMS

The Department has not received any written criticisms of the rules contained in this review.

H. ECONOMIC IMPACT COMPARISON

Because the rules in Article 49 were filed under an exemption from formal rulemaking procedures, the Department did not prepare an Economic Impact Statement for these rules. These rules specify the procedures for this program, including the application process guidelines, eligibility guidelines, and termination of assistance guidelines.

General

The purpose of DES Child Care Assistance is to assist eligible families with child care costs, enabling parents to participate in employment and specific education and training activities related to employment, or in certain other circumstances when parents are unable to provide care. DES Child Care Services may be provided for the following eligible activities or needs:

1. Participation in DES Jobs Program.
2. Employment.
3. Eligible education and training activities related to employment when working a minimum of 20 hours per week.
4. High school, GED or remedial education classes for teen parents.
5. Unable or unavailable to provide care for children due to a physical, mental, or emotional condition, participation in a drug treatment or rehabilitation program, or a court ordered community service program.
6. Residency in a homeless or domestic violence shelter.
7. Other needs as determined by Child Protective Services or foster care case plan.

Child care is provided for a portion of a 24-hour day when neither parent is available to provide care due to participation in eligible activities or needs listed above.

In fiscal year 2016 approximately \$129.7 million was expended to provide assistance to families eligible for Child Care Assistance. An average of 30,001 children received assistance each month and the average cost per child was \$360.35 each month. The total number of individual children served for the year was 51,719.

Stakeholders for the Child Care Assistance program include families who are approved or denied child care assistance, child care providers, employers, and taxpayers.

I. BUSINESS COMPETITIVENESS ANALYSIS

The Department did not receive a business competitive analysis from a member of the public during the process of preparing this report.

J. COURSE OF ACTION FROM PREVIOUS FIVE-YEAR REVIEW REPORT

In the previous Five-Year Review Report, the Department stated that it had requested an exception from the regulatory moratorium to proceed with rulemaking to address the issues identified in the report. The Department stated that the request was under review and that, if approved, the Department proposed to make necessary amendments to the rules within two years of the expiration of the regulatory moratorium, or within two years of receiving an exception from the moratorium.

Since the previous Five-Year Review Report, the Department has continued to identify regulatory priorities and worked in close cooperation with the Governor's Office to seek exceptions for rule packages that met the criteria of the various regulatory moratoria, and that are operational priorities of the Department. Since the review, the Department received moratorium exception approval and completed four rulemakings that each adopted an updated Child Care Assistance Gross Monthly Income Eligibility Chart and

Fee Schedule to adjust the eligibility limits for child care assistance contained in this Article, in order to reflect updated federal poverty guidelines.

The Department more recently received approval to make additional updates to this Article as discussed in L. Proposed Action below.

K. DETERMINATION OF BURDEN AND COSTS

With the amendments proposed in this report, the Department believes that the rules would impose the least burden and costs to persons regulated by these rules, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objectives.

L. CORRESPONDING FEDERAL LAW

The rules in Article 49 are not more stringent than, nor in conflict with, corresponding federal statutes and regulations except those identified in section D. Consistency. These rules need amendments to be effective in meeting the requirements established by the CCDBG Act of 2014, associated regulations at 45 CFR Part 98, and Public Law No. 113-186.

M. COMPLIANCE WITH A.R.S. § 41-1037

The Department has determined that A.R.S. § 41-1037 does not apply to these rules, because the Department is not proposing a new rule or an amendment to an existing rule that requires the issuance of a regulatory permit, license, or agency authorization.

N. PROPOSED ACTION

On March 7, 2016, the Department received moratorium exception approval to address matters identified in this report. The Department has worked closely with various stakeholders to prepare a draft Notice of Proposed Rulemaking that is currently under review by the Office of the Attorney General. The Department anticipates filing a Notice of Final Rulemaking that addresses the issues identified in the report in October of 2017.