

Removing Barriers to Child Care Assistance

October 5th, 2015

PEOPLE for the Kids
& The OLÉ
Working Parents Association

P4K is a coalition of preschool owners, early educators, and parents, working to increase access to high-quality early education.

WPA represents 4,000 parents of young children, throughout New Mexico.

CYFD Practices

- Expose victims of domestic violence to retaliation from their abusers.
- Falsely inflate family income by counting unpaid child support as income.
- Threaten job stability with short contracts.



“CYFD told me I had to file for child support to get my contract approved. I had a restraining order in place but I did not know my rights. I did what I was told I had to to be able to receive help even though I was afraid.”

- Kim

Domestic Violence

- 1 in 3 women in New Mexico are victims of Domestic Violence in their lifetime
- New Mexico has one of the highest rates of women who are murdered by men as a result of domestic violence



The Risk is REAL

CYFD Regs designed to protect parents

(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;

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 program. Using child care for recreational or other purposes is considered fraud and sanctions may be imposed, including recoupment.

A. Co-payments: Co-payments are paid by all clients receiving child care assistance benefits, except for child protective services (CPS) and qualified grandparents or legal guardians as defined in Subsection B of 8.15.2.11 NMAC. Co-payments are based upon the size and income of the household.

B. Co-payments for each additional child are determined at one half of the co-payment for the previous child.

C. Co-payments for children in part-time care are determined based upon the block of time that the child is in care.

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 loss of employment, no longer attending school, no longer participating in a work requirement, or household members moving in or out, within five business days of the change. Priority one clients whose TANF cases are closed by the human services department at the time of their TANF recertification, must contact the department immediately. Clients who do not comply with this requirement may be sanctioned, and may be subject to the recoupment process.

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 six months of initial application with the child care assistance program. Clients currently receiving child care assistance at the time this policy becomes effective shall have six months after recertification to comply with this requirement. Clients recertifying in fewer than six months will have until their following recertification visit to comply.

(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; 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; or when good cause exists.

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(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 or termination 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, 02/14/05; A, 06/30/10; A, 11/30/12]

But not enforced

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CYFD requires parents to apply for child support through the CSE division, but it uses court-ordered child support to deny parents by counting the support as income even if the parent never receives a check from the non-custodial parent.

Counting support that is never received as income either:

- falsely increases the parents' child care co-payment

OR

- falsely moves them above the 150% FPL qualifying level for assistance.

“Child support is court ordered but it has not been enforced. I have not received one dime but CYFD counted the amount towards my income”

- Reina



Short Contracts Impact Centers

- Centers subsidize CYFD by providing unreimbursed care when CYFD is slow to renew or denies contracts.
- Short contracts create extra paperwork burden.
- Make it harder to plan staffing and budget.
- Disrupt the classroom environment.

Short Contracts Hurt Working Moms

- Cost families in lost wages and travel expenses (upwards of \$50 per contract)
- Threaten parents' job security. Parents have been disciplined and/or fired for repeatedly taking time off to go to CYFD

Short Contracts Hurt Children

- More likely to show aggression
- Less likely to be outgoing by pre-school
- Less academically-prepared for kindergarten
- More likely to have difficulty forming secure attachments

Recommendations

- Create third Party oversight of CYFD's compliance with its regulations
- Repeal the child support filing requirement
- End the practice of counting unreceived child support towards income
- Align with federal recommendations:
 - change the child-care recertification period from six months to to 12 months;
 - provide child-care assistance during high school and college breaks; and
 - set the entrance eligibility for child-care assistance at 225 percent of the federal poverty level
- Provide every parent who applies for child care assistance with a copy of the Parent Bill of Rights

Parent Bill of Rights

Right to Appeal

When you are denied by CYFD, you have the right to appeal your case worker's determination. Ask your case worker to deny your eligibility in writing. You then must make your request in writing for a hearing to appeal your case. You have the right for your benefits to continue during the appeal process, but if you lose your appeal, you must reimburse CYFD. (8.15.2.22)

30 Days to Look for Work

If you lose your job, inform your caseworker and you should receive a 30 day contract to look for work. When you graduate you should also have 30 days to look for work. (8.15.2.14 B)

Exemption From Applying for Child Support

If you have a good reason for not wanting to file for child support you can request a good cause exemption. Examples of good cause include: having an informal arrangement with the non-custodial parent to provide for the child, fear of harm or violence from the other parent, or unknown identity of other parent. (8.15.2.13 H)

Usted Tiene el Derecho a Recibir Servicios en Español

Esto significa que tiene derecho a un intérprete cada vez que usted habla con un trabajador que no habla su idioma.

Study and Commute Time

Your contract should include enough time to get to and from work or school from your child's center. If you are a student you should also receive enough time to study, complete projects, and use the library. Contracts should include time for online line courses as well as those on campus. (8.15.2.11M)

At least 6 Month or Full Semester Contracts

Contracts should be at least 6 months for parents who are employed or should cover the length of the semester for parents who are in school. (8.15.2.9)

Unpaid Child Support Does Not Count Towards Income

Only money that you have actually received should be counted towards your qualifying income. If you have a custody agreement or court order for child support but do not receive that money it should not be included in calculating your income. (8.15.2.11 E)

NEED HELP?

Call the OLÉ Working Parents

Hotline: 505-796-6544

Carta de derechos de Padres

Derecho de Apelación

Cuando usted a sido negando por CYFD, usted tiene el derecho de apelar la determinación de su trabajador social. Pregúntele a su trabajador social de negar su elegibilidad por escrito. Entonces apelar su caso al supervisor de su trabajador social, y solicitar la recepción por escrito de su apelación. (8.15.2.22)

30 Días para buscar trabajo

Si usted pierde su trabajo, informe a su trabajador social y usted debe de recibir un contrato de 30 días para buscar trabajo. Cuando te gradúes también debe tener 30 días para buscar trabajo (8.15.2.14 B)

Exención de aplicar para la Manutención de Niños

Si usted tiene una buena razón para no querer solicitar la manutención del niño, usted puede solicitar una exención de buena causa. Ejemplos de buena causa incluyen: tener un acuerdo informal con el padre sin custodia para proveer para el niño, el miedo al daño o violencia del otro padre, o identidad desconocida del otro padre. (8.15.2.13 H)

Manutención de Menores que no es pagada no cuenta como ingreso

Sólo el dinero que en realidad se ha recibido se debe contar hacia su ingreso calificado. Si usted tiene un acuerdo de custodia u orden judicial de manutención infantil, pero no recibe ese dinero no se debe incluir en el cálculo como ingreso. (8.15.2.11 E)

Tiempo de estudio y transportación

Su contrato debe incluir suficiente tiempo para ir y volver del trabajo o la escuela del centro de su hijo. Si usted es un estudiante también debe recibir suficiente tiempo para estudiar, para completar proyectos, y el uso de la biblioteca. Los contratos deben incluir tiempo para cursos en línea de internet, así como los que en el campus. (8.15.2.11M)

Por lo menos 6 meses o Contratos completo Semestre

Los contratos deben ser de al menos 6 meses para los padres que trabajan o que debe cubrir la longitud del semestre para los padres que están en la escuela. (8.15.2.9)

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NECESITA AYUDA?

Llame a La Asociación de

padres trabajadores de OLÉ

Línea Directa: 505-796-6544