

Attachment A
12-Month Eligibility Implementation Guidance

California Department of Education
September 2017

§ 18078. Definitions.

For the purposes of this chapter, the following definitions shall apply:

(a) "Adjusted monthly income" means the total countable income as defined in subdivision (eu) below, minus verified child support payments paid by the parent whose child is receiving child development services, excluding the non-countable income listed below:

- (1) Earnings of a child under age 18 years;
- (2) Loans;
- (3) Grants or scholarships to students for educational purposes other than any balance available for living costs;
- (4) Food stamps or other food assistance;
- (5) Earned Income Tax Credit or tax refund;
- (6) GI Bill entitlements, hardship duty pay, hazardous duty pay, hostile fire pay, or imminent danger pay;
- (7) Adoption assistance payments received pursuant to Welfare and Institutions Code section 16115 et seq.;
- (8) Non-cash assistance or gifts;
- (9) All income of any individual counted in the family size who is collecting federal Supplemental Security Income (SSI) or State Supplemental Program (SSP) benefits;
- (10) Insurance or court settlements including pain and suffering and excluding lost wages and punitive damages;
- (11) Reimbursements for work-required expenses such as uniforms, mileage, or per diem expenses for food and lodging;
- (12) Business expenses for self-employed family members;
- (13) When there is no cash value to the employee, the portion of medical and/or dental insurance documented as paid by the employer and included in gross pay; and
- (14) Disaster relief grants or payments, except any portion for rental assistance or unemployment.

~~(b) "Certify eligibility" means the formal process the contractor goes through to collect information and documentation to determine that the family and/or child meets the criteria for receipt of subsidized child development services as specified in Education Code sections 8263(a)(1) and 8263 (a)(2). The signature of the contractor's authorized representative on an application for services attests that the criteria have been met.~~

(eb) “Child protective services” means children receiving protective services through the local county welfare department as well as children identified by a legal, medical, social service agency or emergency shelter as abused, neglected or exploited or at risk of abuse, neglect or exploitation.

(ec) “Declaration” means a written statement signed by a parent under penalty of perjury attesting that the contents of the statement are true and correct to the best of his or her knowledge.

(ed) “Displace families” means to disenroll families in order to reduce service levels due to insufficient funding or inability of a contractor to operate one or more sites because of reasons stated in Education Code section 8271.

(ee) “Family” means the parents and the children for whom the parents are responsible, who comprise the household in which the child receiving services is living. For purposes of income eligibility and family fee determination, when a child and his or her siblings are living in a family that does not include their biological or adoptive parent, “family” shall be considered the child and related siblings.

(ef) “Fee schedule” means the “Family Fee Schedule,” issued by the department pursuant to Education Code section 8447(e). The “fee schedule” is used by child development contractors to assess fees for families utilizing child care and development services.

(eg) “Homeless” means a person or family that lacks a fixed, regular, and adequate night-time residence and has a primary night time residence that is:

- (1) A supervised publicly or privately operated shelter, transitional housing, or homeless support program designed to provide temporary living accommodations; or
- (2) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(eh) “Initial Income eligibility” means the definition set forth in Education Code section 8263.1(a) ~~for the purpose of child care and development services that a family's adjusted monthly income is at or below 75 percent of the state median income, adjusted for family size.~~

(ei) “Income fluctuation” means income that varies due to:

- (1) Migrant, agricultural, or seasonal work;
- (2) Intermittent earnings or income, bonuses, commissions, lottery winnings, inheritance, back child support payment, or net proceeds from the sale of real property or stock;
- (3) Unpredictable days and hours of employment, overtime, or self-employment.

(j) “Initial certification” means the formal process for completing an application for services and collecting information and documentation to determine that the family and/or child meets the legal requirements for receipt of subsidized child development services as specified in Education Code sections 8263(a)(1)(A) and 8263 (a)(1)(B). The signature of the authorized representative on an application for services certifies that the legal requirements have been met and documented.

(k) “Immediate need” means a situation in which both subdivisions (1) and (2) apply:

(1) An eligible parent has a need for child care and is employed, participating in a California Work Opportunities and Responsibility to Kids (CalWORKs) work activity, is in training as described in section 18087, or is incapacitated as defined in section 18400(g); and

(2) The contractor determines that no child care is reasonably available from a licensed, TrustLine registered or TrustLine-exempt provider that meets the parent's need for care.

(l) “Legally qualified professional” means a person licensed under applicable laws and regulations of the State of California to perform legal, medical, health or social services for the general public.

(m) “Ongoing income eligibility” means the definition set forth in Education Code section 8263.1(b).

(nn) “Parent” means a biological parent, adoptive parent, stepparent, foster parent, caretaker relative, legal guardian, domestic partner of the parent as defined in Family Code section 297, or any other adult living with a child who has responsibility for the care and welfare of the child.

(oo) “Parental Incapacity” means the temporary or permanent inability of the child's parent(s) to provide care and supervision of the child(ren) for part of the day due to a physical or mental health condition.

(op) “Provisional child care provider” means an individual, exempt from licensure pursuant to Health and Safety Code sections 1596.792(d) or (f), who provides child care for a child or children of an eligible parent for a period of up to 30 days when there is an immediate need. The provisional child care provider shall have completed a TrustLine application and submitted fingerprints, in accordance with Health and Safety Code sections 1596.603 and 1596.605.

(pq) “Recertification” means the formal process for completing an application for services and collecting information and documentation to determine that the family and/or child meets the legal requirements for ongoing receipt of subsidized child development services as specified in Education Code sections 8263(a)(1)(A) and 8263 (a)(1)(B). The signature of the authorized representative on an application for services certifies that the legal requirements have been met and documented.

(pr) "Recipients of service" means families and/or children enrolled in a child care and development program subsidized by the California Department of Education (CDE).

(qs) "Self-Certification of Income" means a declaration signed by the parent under penalty of perjury identifying:

(1) To the extent known, the employer and date of hire and stating the rate and frequency of pay, total amount of income received for the preceding month(s), the type of work performed, and the hours and days worked, when an employer refuses or fails to provide requested employment information or when a request for documentation would adversely affect the parent's employment; or

(2) The amount and frequency of sources of income for which no documentation is possible.

(rt) "State median income" means the most recent median income for California families as determined by the State Department of Finance.

(su) "Total countable income" means all income of the individuals counted in the family size that includes, but is not limited to, the following:

(1) Gross wages or salary, advances, commissions, overtime, tips, bonuses, gambling or lottery winnings;

(2) Wages for migrant, agricultural, or seasonal work;

(3) Public cash assistance;

(4) Gross income from self-employment less business expenses with the exception of wage draws;

(5) Disability or unemployment compensation;

(6) Workers compensation;

(7) Spousal support, child support received from the former spouse or absent parent, or financial assistance for housing costs or car payments paid as part of or in addition to spousal or child support;

(8) Survivor and retirement benefits;

(9) Dividends, interest on bonds, income from estates or trusts, net rental income or royalties;

(10) Rent for room within the family's residence;

(11) Foster care grants, payments or clothing allowance for children placed through child welfare services;

(12) Financial assistance received for the care of a child living with an adult who is not the child's biological or adoptive parent;

- (13) Veterans pensions;
- (14) Pensions or annuities;
- (15) Inheritance;
- (16) Allowances for housing or automobiles provided as part of compensation;
- (17) Portion of student grants or scholarships not identified for educational purposes as tuition, books, or supplies;
- (18) Insurance or court settlements for lost wages or punitive damages;
- (19) Net proceeds from the sale of real property, stocks, or inherited property; or
- (20) Other enterprise for gain.

~~(t) "Update" means the process of revising the application for services between recertifications as specified in section 18103 of this chapter. The application shall be revised by inserting the latest family information that documents the continued need and eligibility for child care and development services.~~

§ 18084. Documentation of Income Eligibility.

The parent is responsible for providing documentation of the family's total countable income and the contractor is required to verify the information, as described below:

(a) The parent(s) shall document total countable income for all the individuals counted in the family size as follows:

(1) If the parent is employed, provide:

(A) A release authorizing the contractor to contact the employer(s), to the extent known, that includes the employer's name, address, telephone number, and usual business hours, and

(B) All payroll check stubs, a letter from the employer, or other record of wages issued by the employer for the month preceding the initial certification, ~~an update of the application~~, or the recertification of that establishes eligibility for ongoing services, pursuant to Education Code section 8263(h)(1).

(2) When the employer refuses or fails to provide requested documentation or when a request for documentation would adversely affect the parent's employment, provide other means of verification that may include a list of clients and amounts paid, the most recently signed and completed tax returns, quarterly estimated tax statements, or other records of income to support the reported income, along with a self-certification of income.

(3) If the parent is self-employed, provide a combination of documentation necessary to establish current income eligibility for at least the month preceding the initial certification, ~~an update of the application~~, or the recertification of that establishes eligibility for ongoing services, pursuant to Education Code section 8263(h)(1). Documentation shall consist of as many of the following types of documentation as necessary to determine income:

(A) A letter from the source of the income,

(B) A copy of the most recently signed and completed tax return with a statement of current estimated income for tax purposes, or

(C) Other business records, such as ledgers, receipts, or business logs.

(4) Provide copies of the documentation of all non-wage income pursuant to section 18078(q), self-certification of any income for which no documentation is possible, and any verified child support payments pursuant to section 18078(a) of this chapter.

(b) The contractor:

(1) Shall retain copies of the documentation of total countable income and adjusted monthly income in the family data file.

(2) When the parent is employed, shall, as applicable, verify the parent's salary/wage; rate(s) of pay; potential for overtime, tips or additional compensation; hours and days of work; variability of hours and days of work; pay periods and frequency of pay, start date for the employee. If the employer refuses or is non-responsive in providing requested information or a request for employer documentation would adversely affect the parent's employment, and if the information provided pursuant to subdivision (a)(3) is inconsistent with the contractor's knowledge or community practice, shall request clarification in the self-certification of income, additional income information or a reasonable basis for concluding that the employer exists.

(3) When the parent is self-employed, shall obtain and make a record of independent verification regarding the cost for services provided by the parent that may be obtained by contacting clients, reviewing bank statements, or confirming the information in the parent's advertisements or website.

If the income cannot be independently verified, the contractor shall assess whether the reported income is reasonable or consistent with the community practice for this employment.

(4) May request additional documentation to verify total countable income to the extent that the information provided by the parent or the employer is insufficient to make a reasonable assessment of income eligibility.

(5) To establish eligibility, shall, by signing the application for services, certify to the contractor's reasonable belief that the income documentation obtained and, if applicable, the self-certification, support the reported income, are reliable and are consistent with all other family information and the contractor's knowledge, if applicable, of this type of employment or employer.

(c) If the family is receiving child care and development services because the child(ren) is/are at risk of abuse, neglect, or exploitation or receiving child protective services, and the written referral required by sections 18081(b)(9) and (b)(10) specifies that it is necessary to exempt the family from paying a fee, then the parent will not be required to provide documentation of total countable income.

§ 18084.1 Duration of Service Requirement

At initial certification or recertification contractors shall:

(a) Certify services for not less than twelve (12) months;

(b) Consider the family to meet the eligibility and/or need requirements for not less than twelve (12) months and provide those services for not less than twelve (12) months before having the family's eligibility or need recertified.

§ 18084.2 The Family's Right to Voluntarily Report Changes

(a) Upon a family voluntarily reporting changes in accordance with 8263(h)(4) the contractor shall:

(1) Use information as applicable to reduce the family fee, increase the family's services, or extend the period of eligibility.

(2) Collect documentation to support the changes requested.

(3) Not later than 10 business days after receipt of applicable documentation, issue a NOA in accordance with section 18095 and,

(4) Not use any information received to make any other changes to the service agreement.

(b) A family may at any time voluntarily request a reduction to their service level. Before a contractor may make any reductions to the service level, a parent shall:

(1) Submit a written request that includes:

(A) Days and hours per day requested;

(B) Effective date of proposed reduction of service level; and

(2) Acknowledge in writing that they understand that they may retain their current service level.

(c) Upon receipt of the parent's written request in subsection (b), the contractor shall:

(1) Notify the family in writing of the parents right to continue to bring their child pursuant to the original certified service level, and

(2) Collect documentation to support the changes requested, and

(3) Not later than 10 business days after receipt of applicable documentation, issue a Notice of Action pursuant to section 18095, and

(4) Not use any information received to make any other changes to the service agreement.

§ 18084.3 Requirement to Report when Income Exceeds Ongoing Income Eligibility.

When a family is initially certified or recertified on the basis of income eligibility:

(a) The family shall, within thirty (30) calendar days, report changes to ongoing income that causes their adjusted monthly income, adjusted for family size to exceed ongoing income eligibility.

(b) Contractors shall:

(1) At initial certification and recertification, notify the parent, in writing;

(A) Of the adjusted monthly income amount, based on the family size, that would render the family ineligible for services, based on ongoing income eligibility requirements, and

(B) Of the requirement to notify the contractor, within thirty (30) calendar days, of any change in ongoing income that causes the family's adjusted monthly income to exceed eighty-five percent (85%) of SMI.

(2) Upon notification of income changes by the family, the contractor shall:

(A) Obtain income documentation, pursuant to section 18084 as applicable;

(B) Calculate the family's adjusted monthly income, pursuant to section 18096;

(C) Assess if the family's adjusted monthly income exceeds the eighty-five percent (85%) of the most recent SMI as published by the SSPI; and

(D) When the family's calculated adjusted monthly income exceeds the eighty-five percent (85%) of the SMI threshold for the verified family size the contractor shall determine if the family is eligible for services based upon other eligibility criteria pursuant to Education Code section 8263(a)(1)(A). If the contractor establishes another basis for eligibility, the contractor shall document the new basis for eligibility and issue a NOA reflecting the change of eligibility.

(E) If the family does not meet another basis for eligibility, the contractor shall issue a Notice of Action to dis-enroll the family, pursuant to section 18095

§ 18086. Documentation of Employment.

(a) If the basis of need as stated on the application for services is employment of the parent, the documentation of the parent's employment shall include the days and hours of employment.

(b) If the parent has an employer, the documentation of need based on employment shall consist of one of the following:

(1) The pay stubs provided to determine income eligibility that indicate the days and hours of employment;

(2) When the provided pay stubs do not indicate the days and hours of employment, the contractor shall verify the days and hours of employment by doing one of the following:

(A) Secure an independent written statement from the employer;

(B) Telephone the employer and maintain a record;

(C) If the provided pay stubs indicate the total hours of employment per pay period and if the contractor is satisfied that the pay stubs have been issued by the employer, specify on the application for services the days and hours of employment to correlate with the total hours of employment and the parent's need;

(D) If the variability of the parent's employment is unpredictable and precludes the contractor from verifying specific days and hours of employment or work week cycles, specify on the application for services that the parent is authorized for a variable schedule for the actual hours worked, identifying the maximum number of hours of need based on the week with the greatest number of hours within the preceding four weeks and the verification pursuant to subdivisions (A), (B), or (C) above. ~~Until such time as the employment pattern becomes predictable, need for services shall be updated at least every four months and shall be based on the requirements of subdivision (b) and the child care services utilized;~~

(E) If the employer refuses or is non-responsive in providing the requested information, record the contractor's attempts to contact the employer, and specify and attest on the application for services to the reasonableness of the days and hours of employment based on the description of the employment and community practice; or

(F) If the parent asserts in a declaration signed under penalty of perjury that a request for employer documentation would adversely affect the parent's employment, on the application for services:

(i) Attest to the reasonableness of the parent's assertion; and

(ii) Specify and attest to the reasonableness of the days and hours of employment based on the description of the employment and community practice.

(3) When the employed parent does not have pay stubs or other record of wages from the employer and has provided a self-certification of income, as defined in section 18078(o), the contractor shall assess the reasonableness of the days and hours of employment, based on the description of the employment and the documentation provided pursuant to section 18084(a)(3), and authorize only the time determined to be reasonable.

(c) If the parent is self-employed, the documentation of need based on employment shall consist of the following:

(1) Parent provided information that includes:

(A) A declaration of need under penalty of perjury that includes a description of the employment and an estimate of the days and hours worked per week;

(B) To demonstrate the days and hours worked, a copy of one or more of the following: appointment logs, client receipts, job logs, mileage logs, a list of clients with contact information, or similar records; and

(C) As applicable, a copy of a business license, a workspace lease, or a workspace rental agreement.

(2) A statement by the contractor assessing the reasonableness of the total number of days and hours requested per week based on the description of the employment and the documentation provided pursuant to this section and section 18084. If the parent has unpredictable hours of employment, the contractor shall authorize the parent for a variable schedule not to exceed the number of hours determined to be needed per week. ~~Need for services for unpredictable hours shall be updated at least every four months and shall be based on the requirements of subdivision (c).~~ If the contractor has been unable to verify need based on the documentation provided, the contractor shall take additional action to verify self-employment that includes any one or more of the following:

(A) If the self-employment occurs in a rented space, contacting the parent's lessor or other person holding the right of possession to verify the parent's renting of the space;

(B) If the self-employment occurs in variable locations, independently verifying this information by contacting one or more clients whose names and contact information have been voluntarily provided by the parent; or

(C) Making other reasonable contacts or requests to determine the amount of time for self-employment.

(3) If the contractor is unable to make a reasonable assessment of the hours needed for self-employment after attempting to verify such hours and documenting the attempts, the contractor may divide the parent's self-employment income, as defined in section 18078(q)(4), by the applicable minimum wage. The resulting quotient shall be the maximum hours needed for employment per month.

(d) For the instances identified in subdivision (b)(2)(A) through (E) and (c), the parent shall provide a release to enable the contractor to obtain the information it deems necessary to support the parent's asserted days and hours worked per week.

(e) If additional services are requested for travel time or sleep time to support employment, the contractor shall determine, as applicable, the time authorized for:

(1) Travel to and from the location at which services are provided and the place of employment, not to exceed half of the daily hours authorized for employment to a maximum of four hours per day; or

(2) Sleep, if the parent is employed anytime between 10:00 p.m. and 6:00 a.m., not to exceed the number of hours authorized for employment and travel between those hours.

§ 18086.5. Documentation of Seeking Employment; Service Limitations.

(a) If the basis of need as stated on the application for services is seeking employment, the parent's period of eligibility for child care and development services is for not less than twelve (12) months, limited to 60 working days during the contract period, except as specified in subdivisions (d) and (e). Services shall occur on no more than five (5) days per week and for less than thirty (30) hours per week. ~~The period of eligibility shall start on the day authorized by the contractor and extend for consecutive working days.~~

(b) Documentation of seeking employment shall include a written parental declaration signed under penalty of perjury stating that the parent is seeking employment. The declaration shall include the parent's plan to secure, change, or increase employment and shall identify a general description of when services will be necessary.

~~(c) The contractor shall determine the number of working days available for seeking employment and the child care schedule, which may be a variable schedule, based on the documentation. During the period of authorization and if necessary to verify need, the contractor may request that the parent provide, no more than once a week, a description of the activities he or she has undertaken during the previous week to seek employment and, as appropriate, may require additional documentation.~~

~~(d) If the Governor declares a state of emergency and if the factual bases for the Governor's declaration indicate that opportunities for employment have temporarily diminished to such a degree that parents cannot be reasonably expected to find employment within 60 working days of diligent searching, the State Superintendent of Public Instruction (SSPI) may investigate to determine whether the 60-working-days limitation described in paragraph (a) should be suspended. If the SSPI determines that it is in the public interest to do so, he or she may, by order, suspend the 60-working-days limitation on eligibility during the period of the emergency or for a lesser time. The scope of the suspension, including the geographic areas and the persons affected, and its duration, shall be no more than necessary to respond to the emergency as determined in the SSPI's investigation, and shall be specifically described in the SSPI's order. If a parent's services for seeking employment were exhausted after an emergency was declared and before the SSPI suspends the eligibility limitation, the contractor may re-authorize services for seeking employment in accordance with the conditions specified in the SSPI's order.~~

~~(e) If the parent has concurrently received services based on employment or vocational training for at least 20 working days while receiving services for seeking employment, eligibility for seeking employment may be extended for an additional 20 working days. For such a parent, services for this purpose shall not exceed 80 working days during the contract period.~~

~~(f) If services for this purpose are discontinued, the number of working days remaining in the period of eligibility shall be available for a subsequent period of eligibility during the contract period.~~

~~(g) As used in this section, the working days used to determine the period of eligibility shall include the consecutive Mondays through Fridays, excluding any federal holidays.~~

§ 18087. Documentation of Training Toward Vocational Goals.

(a) When the need for services is training toward vocational goals, the parent's period of eligibility for services shall be for not less than twelve (12) months, up to the limitation set forth in subdivision (b). If the parent has reached the limitation described in subdivision (b), the family shall receive services until the end of the fiscal year in which the limit was reached.

~~(a)~~ If the basis of need as stated on the application for services is vocational training leading directly to a recognized trade, paraprofession, or profession, child care and development services shall be limited, except as specified in subdivision (f), to whichever expires first:

(1) Six years from the initiation of services pursuant to this section; or

(2) Twenty four semester units, or its equivalent, after the attainment of a Bachelor's Degree.

~~(b)~~ The parent shall provide documentation of the days and hours of vocational training to include:

(1) A statement of the parent's vocational goal;

(2) The name of the training institution that is providing the vocational training;

(3) The dates that current quarter, semester, or training period, as applicable, will begin and end;

(4) A current class schedule that is either an electronic print-out from the training institution of the parent's current class schedule or, if unavailable, a document that includes all of the following:

(A) The classes in which the parent is currently enrolled;

(B) The days of the week and times of day of the classes; and

(C) The signature or stamp of the training institution's registrar.

(5) The anticipated completion date of all required training activities to meet the vocational goal; and

~~(6) Upon completion of a quarter, semester, or training period, as applicable, a report card, a transcript, or, if the training institution does not use formal letter grades, other records to document that the parent is making progress toward the attainment of the vocational goal in accordance with subdivision (f).~~

~~(e)~~ A parent may voluntarily report changes pursuant to section 18084.2. A parent shall report any change in his or her class schedule related to the days and times of any

~~class, including a withdrawal from a class, within five calendar days of requesting the change from the institution.~~

~~(de)~~ Services may be provided for classes related to the General Education Development (GED) test or English language acquisition if such courses support the attainment of the parent's vocational goal.

~~(ef)~~ On-line or televised instructional classes that are unit bearing classes from an accredited training institution shall be counted as class time at one hour a week for each unit. The parent shall provide a copy of the syllabus or other class documentation and, as applicable, the Web address of the on-line program. The accrediting body of the training institution shall be among those recognized by the United States Department of Education.

~~(fg)~~ Continuation of Ongoing eligibility for services based on vocational training is contingent upon making adequate progress. At recertification the parent shall provide documentation of the adequate progress from the most recently completed quarter, semester, or training period:

~~(1)~~ To make adequate progress each quarter, semester, or training period, as applicable, the parent shall obtain, in the college classes, technical school, or apprenticeship for which subsidized care is provided:

~~(4A)~~ In a graded program, earn a 2.0 grade point average; or

~~(2B)~~ In a non-graded program, pass the program's requirements in at least 50 percent of the classes or meet the training institution's standard for making adequate progress.

~~(g2)~~ The first time the parent does not meet the condition in subdivision ~~(fg)(1)~~, the parent may be recertified and continue to receive ongoing services as described in subdivision (a). ~~for one additional quarter, semester, or training period, as applicable, to improve the parent's progress.~~

~~(3)~~ At the conclusion of that session this eligibility period, the parent shall, ~~in the classes for which subsidized care was provided~~, have made adequate progress pursuant to subdivision ~~(fg)(1)~~ in order to be recertified for services based on vocational training. If the parent has not made adequate progress pursuant to subdivision ~~(fg)(1)~~, the family ~~services based on vocational training this purpose shall be:~~

~~(4A)~~ Disenrolled/Terminated; and

~~(2B)~~ Services based on vocational training are only Aavailable to the parent, to the extent provided by subdivision ~~(ab)~~, after six (6) months from the date of disenrollment termination.

~~(h)~~ ~~No later than ten calendar days after the training institution's release of progress reports for the quarter, semester, or vocational training period, as applicable, To~~

document adequate progress, the parent shall provide the contractor with a copy of the parent's official progress report from the most recently completed quarter, semester or training period. ~~As it deems appropriate, the~~ contractor may require the parent to:

(1) Have an official copy of a progress report sent directly from the training institution to the contractor; or

(2) Provide a release, as may be required by the training institution, to enable the contractor to verify the parent's progress with the institution.

(i) A parent may change his or her vocational goal, but services shall be limited to the time or units remaining from the initiation of the provision of services for vocational training as specified in subdivision (ba).

(j) The contractor shall determine the days and hours needed per week, and whether the parent is making progress, based on the documentation. The contractor may request that the parent provide a publication from the training institution describing the classes required to complete the parent's vocational goal.

(k) If additional services are requested for study time or travel time to support the vocational training, the contractor shall determine, as appropriate, the amount of services needed for:

(1) Travel to and from the location at which services are provided and the training location, not to exceed half of the weekly hours authorized for training to a maximum of four (4) hours per day; or

(2) Study time, including study time for on-line and televised instructional classes, according to the following:

(A) Two (2) hours per week per academic unit in which the parent is enrolled;

(B) On a case-by-case basis and as may be confirmed with the class instructor, additional time not to exceed one hour per week per academic unit in which the parent is enrolled; and

(C) On a case-by-case basis, no more than the number of class hours per week for non-academic or non-unit bearing training.

(l) The service limitations specified in subdivision (ba) shall not apply to a parent who demonstrates he or she is:

(1) As of June 27, 2008 receiving services for vocational training and has attained a Bachelor's Degree;

(2) Receiving services from a program operating pursuant to Education Code section 66060;

(3) Attending vocational training when the parent has been deemed eligible for rehabilitation services by the California Department of Rehabilitation; or

(4) Attending retraining services available through the Employment Development Department of the State or its contractors due to a business closure or mass layoff.

§ 18088. Documentation of Parental Incapacity; Service Limitations.

(a) If the basis of need as stated on the application for services is parental incapacity, child care and development services shall not exceed fifty (50) hours per week.

(b) Documentation shall include a release signed by the incapacitated parent authorizing a legally qualified health professional to disclose information necessary to establish that the parent meets the definition of incapacity, pursuant to section 18078, and needs services.

(c) The documentation of incapacitation provided by the legally qualified health professional shall include:

(1) A statement that the parent is incapacitated, that the parent is incapable of providing care and supervision for the child for part of the day, and, if the parent is physically incapacitated, that identifies the extent to which the parent is incapable of providing care and supervision;

(2) The days and hours per week that services are recommended to accommodate the incapacitation, taking into account the age of the child and the care needs. This may include time for the parent's regularly scheduled medical or mental health appointments; and

~~(3) The probable duration of the incapacitation; and~~

~~(4)~~ (3) The name, business address, telephone number, professional license number, and signature of the legally qualified health professional who is rendering the opinion of incapacitation and, if applicable, the name of the health organization with which the professional is associated.

(d) The contractor may contact the legally qualified health professional for verification, clarification, or completion of the provided statement.

(e) The contractor shall determine the days and hours of service based on the recommendation of the health professional and consistent with the provisions of this article.

(f) The period of eligibility for services when the need for services is incapacitation is for not less than twelve (12) months.

§ 18090. Documentation of Homelessness.

If the basis of eligibility and need as specified in Education Code section 8263(a)(1) is homelessness, the family data file shall include documentation of homelessness. The documentation of homelessness shall include:

(a) A written referral from an emergency shelter or other legal, medical or social service agency; or

(b) A written parental declaration that the family is homeless and a statement describing the family's current living situation.

(c) The period of eligibility for services when the need for services is homelessness is for not less than twelve (12) months, pursuant to Education Code section 8263(h)(1).

§ 18091. Documentation of Seeking Permanent Housing; Service Limitations.

(a) If the basis of need as stated on the application for services is seeking permanent housing for family stability, the parent's initial certification or recertification period of eligibility for child care and development services is shall be for no less than twelve (12) months limited to 60 working days during the contract period, except as specified in subdivision (d). Services shall occur on no more than five (5) days per week and for less than thirty (30) hours per week. The period of eligibility shall start on the day authorized by the contractor and extend for consecutive working days.

(b) Documentation of seeking permanent housing shall include a written parental declaration signed under penalty of perjury that the family is seeking permanent housing. The declaration shall include the parent's search plan to secure a fixed, regular, and adequate residence and shall identify a general description of when services will be necessary. If the family is residing in a shelter, services may also be provided while the parent attends appointments or activities necessary to comply with the shelter participation requirements.

(c) At any time between the initial certification or recertification period a parent may voluntarily request an increase to their certified child care schedule based on provided documentation of employment or on other basis for need as applicable, pursuant to section 18084.2.

~~(c) The contractor shall determine the number of weeks available for seeking permanent housing and the child care schedule, which may be a variable schedule, based on the documentation. During the period of authorization and if necessary to verify need, the contractor may request that the parent provide, no more than once a week, either a declaration signed under penalty of perjury describing the activities the parent has undertaken during the previous week to seek permanent housing or a signed statement from the shelter, transitional housing agency, or homeless support program regarding the parent's search progress to date.~~

~~(d) If the parent does not expect to secure housing prior to the end of the eligibility period:~~

~~(1) The parent may request an extension in a declaration of need signed under penalty of perjury that includes an update of the parent's search plan and either a description of the activities undertaken during the previous week to seek permanent housing or a signed statement from the shelter, transitional housing agency, or homeless support program indicating the parent's continued need for services; and~~

~~(2) The contractor may authorize an extension of search eligibility for up to 20 additional working days.~~

~~(e) If services for this purpose are discontinued, the number of working days remaining in the period of eligibility shall be available for a subsequent period of eligibility during the contract period.~~

~~(f) As used in this section, the working days used to determine the period of eligibility shall include the consecutive Mondays through Fridays, excluding any federal holidays.~~

§ 18096. Calculation of Income.

The contractor shall calculate total countable income based on income information reflecting the family's current income:

(a) Using an income calculation worksheet that specifies the frequency and amount of the payroll check stubs provided by the parent and all other sources of income pursuant to section 18078(~~qu~~).

(b) When income fluctuates because of:

(1) Agricultural work as referenced in section 18078(~~ji~~)(1), by averaging income from the twelve (12) months preceding the initial certification, an update of the application, or the recertification, or when the family reports income in excess of 85% of SMI in accordance with section 18084.3 ~~that establishes eligibility for services.~~

(2) Intermittent income as referenced in section 18078(~~ji~~)(2), by averaging the intermittent income from the preceding twelve (12) months by dividing by twelve (12) and add this amount to the other countable income.

(3) Unpredictable income as referenced in section 18078(~~ji~~)(3), by averaging the income from at least three consecutive months and no more than twelve (12) months preceding the initial certification, an update of the application, or the recertification, or when the family reports income in excess of 85% of SMI in accordance with section 18084.3. ~~that establishes eligibility for services.~~

~~§ 18102. Notice to Families of Their Responsibility to Notify Contractor of Changes to Family Circumstances. REPEAL~~

~~At the time the contractor certifies or recertifies eligibility of a family/child for child care and development services, the contractor shall inform the family of the family's responsibility to notify the contractor within five calendar days of any changes in family income, family size, or the need for services as specified in Education Code section 8263(a)(2).~~

§ 18103. Recertification.

~~(a) After initial certification and enrollment, the contractor shall verify need and eligibility and need and recertify each family/child as follows: once each contract period at intervals not less than twelve (12) months.~~

~~(1) Families receiving services because the child is at risk of abuse, neglect or exploitation shall be recertified at least once every six (6) months;~~

~~(2) Families receiving services because of actual abuse, neglect or exploitation shall be recertified at least every six (6) months and, at the time of recertification, the contractor shall document that the family is participating in a protective services plan in accordance with the requirements of their local county welfare department, child protective services unit to alleviate the circumstances causing the abuse, neglect or exploitation;~~

~~(3) All other families shall be recertified at least once each contract period and at intervals not to exceed twelve (12) months;~~

~~(b) Contractors shall update the family's application to document continued need and eligibility as specified in Education Code section 8263(a)(1) and (a)(2) and determine any change to fee assessment, if applicable, as follows:~~

~~(1) For migrant and other seasonally employed families, the application shall be updated within thirty (30) days whenever there is a change in family size or need as specified in section 18083(e) of this Division if need is based on training or incapacity of the parent;~~

~~(2) For all other families, the application shall be updated within thirty (30) days whenever there is a change in family size, income, public assistance status or need as specified in section 18083(e) of this Division;~~

~~(3) The requirement for updating the files does not apply to families receiving services because the child is abused, neglected or exploited or at risk of abuse, neglect, or exploitation.~~

~~§ 18104. Limited Term Service Leave Requirements. REPEAL~~

~~(a) If the family will temporarily not have a need for subsidized child care and development services as specified in Education Code section 8263(a)(2), the contractor may grant the family a limited term service leave. Reasons for a limited term service leave shall include medical leave and family leave, and may include, but are not limited to, break in employment, school break, the child's visit with the non-custodial parent that is not ordered by the court, or family vacation in excess of best interest days as specified in section 18066(f). Family leave means a leave:~~

- ~~(1) For the birth and care of the newborn child of the parent,~~
- ~~(2) For placement with the parent of a child for adoption or foster care, and~~
- ~~(3) To care for the parent's child, spouse, or parent who has a health condition.~~

~~(b) If the contractor offers limited term service leaves, the contractor:~~

- ~~(1) Shall provide equal access to limited term service leaves; and~~
- ~~(2) May set a limit on the number of leaves to be granted in a contract year based on an assessment of contract resources pursuant to section 18054.~~

~~(c) If the contractor grants a limited term service leave:~~

- ~~(1) The family shall not be disenrolled from the program;~~
- ~~(2) The service agreement with the parent shall indicate that no services will be provided during the limited term service leave; and~~
- ~~(3) The contractor shall not report the child as enrolled nor claim reimbursement from the California Department of Education while the child is on a limited term service leave.~~

~~(d) A limited term service leave shall not exceed 12 consecutive weeks in duration, except as specified in subdivisions (e) and (f).~~

~~(e) A limited term service leave from employment or training shall not exceed 16 consecutive weeks in duration if the leave is for:~~

- ~~(1) A medical or family leave; or~~
- ~~(2) A period when the vocational training program is not in spring, fall, or winter sessions.~~

~~(f) A limited term service leave may be granted for any portion of the contract period in which a child is attending an After School Education and Safety Program, pursuant to Education Code sections 8482 et seq., or a federal 21st Century Community Learning Centers program, as referenced in Education Code sections 8484.7 et seq.~~

§ 18406. Family Eligibility.

(a) A family is eligible to receive CalWORKs Stage 2 child care services if all of the following conditions are met:

(1) The family is ~~and remains~~ determined to be income eligible at initial certification or recertification. A family is:

(A) Initially income eligible, if when the family's adjusted monthly income, based upon the family size, is at or below ~~75~~70% of the state median income.

(B) Ongoing income eligible, when the family's adjusted monthly income, based upon the family size, is at or below 85% of the state median income.

(2) Adjusted monthly income is the total countable income received by members of the family included in the family size determination minus verified child support payments paid by the parent whose child is receiving child care services. Except for child support payments paid by the parent, monthly income shall not be adjusted because of voluntary or involuntary deductions.

(A) When income fluctuations occur, the adjusted income shall be computed by averaging the total adjusted income received during the previous twelve (12) months.

(B) For families applying for Stage 2 child care pursuant to Section 18409.5, the 12-month period shall be the twelve (12) months immediately preceding the month in which the application is signed.

~~(C) For families that transfer from either Stage 1 or another Stage 2 contractor, the 12-month period shall be the twelve (12) months immediately preceding the transfer.~~

~~(CD) For all other families~~ At recertification, the 12-month period shall be the twelve (12) months immediately preceding the month of recertification.

(DE) Total countable income does not include the following:

(i) Earnings of a child under the age of 18 years;

(ii) Loans, grants, and scholarships obtained under conditions that preclude their use for current living costs;

(iii) Grants or loans to students for educational purposes made or insured by a state or federal agency;

(iv) Allowances received for uniforms or other work required clothing, food, or shelter;

(v) Income that is used for business expenses for self-employed family members; or

(vi) The income of a recipient of federal supplemental security income and state supplemental program (SSI/SSP) benefits;z

(23) The adult or minor teen parent is responsible for the care of the child needing child care; and

(34) The adult or minor teen parent is:

(A) A CalWORKs cash aid recipient;

(B) A former CalWORKs cash aid recipient who received such cash aid within the last 24 months; or

(C) Determined eligible for diversion services by the county welfare department.

(b) Current CalWORKs cash aid recipients must be participating in a county welfare department CalWORKs approved welfare-to-work activity or be employed.

(c) If child care is reimbursed with state funds, the parent(s) and any other adult whose income is counted towards Stage 2 eligibility must each meet one of the following requirements:

(1) Be employed. If the parent(s) works in the home, the nature of the work must preclude the supervision of the parent's children;

(2) Be seeking employment, ~~but not to exceed 60 working days in the fiscal year;~~

(3) Be participating in a job training and education program leading directly to a recognized trade, paraprofession, or profession;

(4) Be participating in job retention services as approved by the county welfare department; or

(5) Be incapacitated.

(d) If child care is reimbursed with federal funds:

(1) The parent must meet one of the following requirements:

(A) Be employed. If the parent works in the home, the nature of the work must preclude the supervision of the parent's children;

(B) Be seeking employment, ~~but not to exceed sixty working days in the fiscal year;~~

(C) Be participating in a job training and education program leading directly to a recognized trade, paraprofession, or profession; or

(D) Be participating in job retention services as approved by the county welfare department.

(2) Any other adult whose income is counted towards Stage 2 eligibility must meet one of the requirements contained in Subsection (d)(1) or be incapacitated.

§ 18408. Eligibility Duration.

(a) Notwithstanding Section 18406(a)(1), families receiving CalWORKs cash aid are categorically eligible pursuant to Education Code section 8350.5 to receive CalWORKs Stage 2 child care when, at initial certification and recertification, ~~(1) the family continues to meet~~ the need requirement-eligibility criterion pursuant to Section 18406(b); ~~and.~~

~~(2) the requirements of Section 18084 regarding income reporting are met, in order to determine the need to assess parent fees pursuant to Section 18109; and~~

~~(3) the requirements of Chapter 19, Article 5 (commencing with Section 18108) regarding parent fees are met.~~

(b) A contractor's policies regarding family eligibility, except as provided in Section 18411(d), shall not supercede the categorical eligibility of a family receiving CalWORKs cash aid.

(c) When such a categorically eligible family would otherwise have their child care terminated due to the family's violation of a child care provider's policy:

(1) The contractor shall notify the county welfare department of the actions of the family that violated the contractor's policy in order to determine what action(s) may be taken.

(2) The contractor may take additional steps to remedy the situation that include but are not limited to:

(A) Developing a jointly agreed upon plan with the county welfare department for specific services to be provided to the family by the county welfare department.

(B) Jointly determining with the county welfare department whether the family would better be served in CalWORKs Stage 1.

(d) A former CalWORKs cash aid recipient meeting the requirements of Sections 18406 and 18407 is eligible to receive child care services in Stage 1 and/or Stage 2 for 24 months after the adult is no longer receiving CalWORKs cash aid. The 24-month time limit begins the first day of the month immediately following the month the adult is no longer receiving CalWORKs cash aid.

(e) A family receiving diversion services meeting the requirements of Sections 18406 and 18407 is eligible to receive child care services in Stage 2 for 24 months. The 24-month time limit begins the first day of the month that the family is determined eligible for diversion services.

(f) When a former CalWORKs cash aid recipient again becomes eligible for and receives CalWORKs cash aid, and then is terminated from CalWORKs cash aid, the family is eligible for another 24 months of Stage 1 or Stage 2 child care, or a

combination of the two. The 24-month period begins on the first day of the month immediately following the month the adult is no longer receiving CalWORKs cash aid.

§ 18410. Contractor Responsibilities for Maintaining Family Eligibility.

(a) At the time of initial certification and recertification, a family certified as income eligible shall be informed of ~~its responsibility~~ the requirement to notify the contractor within thirty (30) calendar days ~~five calendar days~~ of any changes ~~in to the family's~~ adjusted monthly income, adjusted for family size, in excess of eighty-five percent (85%) of SMI, as set forth in Section 18084.3, family size, or need for child care services.

(b) ~~When a family reports changes as required in (a), the contractor shall update the family's application within 30 days after notification by the family of a change in family income, family size, or need~~ adhere to the process delineated in Section 18084.3. ~~When updating the family's application~~ At recertification, the contractor shall make every effort to maximize convenience for the parent and avoid requiring the parent to take time off from work or a work activity.

(c) Notwithstanding Subsection (b), all families shall be recertified for eligibility and need at least once each contract period and at intervals not less than ~~not to exceed~~ twelve (12) months. Once initially certified or recertified, families shall be deemed to meet all eligibility and need requirements for twelve (12) months, shall receive services for not less than twelve (12) months, but may be subject to transfer between stages as set forth in these regulations.

(d) If a family no longer meets the requirements specified in Sections 18406 and 18407 and the contractor receives a referral for services pursuant to Chapter 19, Section 18092, the family must be transferred to a non-CalWORKs alternative payment program contractor as soon as possible.

(e) When a former CalWORKs cash aid recipient or a diversion family times out, the family is to be transferred to CalWORKs Stage 3 effective the first day of the following month. If there are no funds available in a CalWORKs Stage 3 program or another subsidized child care program, the contractor shall terminate child care pursuant to Section 18419.

§ 18421. Family Eligibility.

(a) A family is eligible to receive CalWORKs Stage 3 child care services if all of the following conditions are met:

(1) The family is ~~and remains~~ determined to be income eligible at initial certification or recertification. A family is:

(A) Initially income eligible, ~~if~~ when the family's adjusted monthly income, based upon the family size, is at or below ~~75~~70% of the state median income.

(B) Ongoing income eligible, when the family's adjusted monthly income, based upon the family size, is at or below 85% of the state median income.

(2) Adjusted monthly income is the total countable income received by members of the family included in the family size determination minus verified child support payments paid by the parent whose child is receiving child care services. Except for child support payments paid by the parent, monthly income shall not be adjusted because of voluntary or involuntary deductions.

(A) When income fluctuations occur, the adjusted monthly income shall be computed by averaging the total adjusted monthly income received during the previous twelve (12) months.

~~(B) For families that transfer from either Stage 1 or another Stage 2 contractor, the 12-month period shall be the 12 months immediately preceding the transfer.~~

~~(B)~~ (C) For all other families At recertification, the 12-month period shall be the twelve (12) months immediately preceding the month of recertification.

~~(C)~~ (D) Total countable income does not include the following:

(i) Earnings of a child under the age of 18 years;

(ii) Loans, grants, and scholarships obtained under conditions that preclude their use for current living costs;

(iii) Grants or loans to students for educational purposes made or insured by a state or federal agency;

(iv) Allowances received for uniforms or other work required clothing, food, or shelter;

(v) Income that is used for business expenses for self-employed family members; or

(vi) The income of a recipient of federal supplemental security income and state supplemental program (SSI/SSP) benefits;

~~(3)~~ (2) The adult or minor teen parent is responsible for the care of the child needing child care; and

(43) The adult or minor teen parent is:

(A) A former CalWORKs cash aid recipient and is in his/her 24th month of eligibility for CalWORKs Stage 1 and/or 2 after leaving CalWORKs cash aid, or

(B) A diversion services recipient and is in his/her 24th month of eligibility for CalWORKs Stage 1 and/or 2 child care.

(b) If child care is reimbursed with state funds, the parent(s) and any other adult whose income is counted towards Stage 3 eligibility must each meet one of the following requirements:

(1) Be employed. If the parent(s) works in the home, the nature of the work must preclude the supervision of the parent's children;

(2) Be seeking employment, ~~but not to exceed sixty working days in the fiscal year;~~

(3) Be participating in a job training and education program leading directly to a recognized trade, paraprofession, or profession;

(4) Be participating in job retention services as approved by the county welfare department; or

(5) Be incapacitated.

(c) If child care is reimbursed with federal funds:

(1) The parent must meet one of the following requirements:

(A) Be employed. If the parent works in the home, the nature of the work must preclude the supervision of the parent's children;

(B) Be seeking employment, ~~but not to exceed sixty working days in the fiscal year;~~

(C) Be participating in a job training and education program leading directly to a recognized trade, paraprofession, or profession; or

(D) Be participating in job retention services as approved by the county welfare department.

(2) Any other adult whose income is counted towards Stage 3 eligibility must meet one of the requirements contained in Subsection (c)(1) or be incapacitated.

§ 18423. Eligibility Duration.

After initial enrollment into a Stage 3 program, child care services will be continued as long as the child meets the requirements of Section 18422 for no less than twelve (12) months and:

(a) The family ~~continues to~~ meets income eligibility requirements pursuant to Section 18421; or

(b) The contractor has received a referral for child protective services pursuant to Chapter 19, Section 18092; or

(c) If being reimbursed by state funds, the family is income eligible and the child has a medical or psychiatric special need that cannot be met without the provision of child care services as documented in the family data file pursuant to Chapter 19, Section 18089.

§ 18425. Contractor Responsibilities for Maintaining Family Eligibility.

(a) At the time of initial certification and recertification, a family certified as income eligible shall be informed of ~~its responsibility~~ the requirement to notify the contractor within thirty (30) calendar days ~~five calendar days~~ of any changes ~~in to the family's~~ adjusted monthly income, adjusted for family size, in excess of eighty-five percent (85%) of SMI, as set forth in Section 18084.3, family size, or need for child care services.

(b) ~~When a family reports changes as required in (a), the contractor shall update the family's application within 30 days after notification by the family of a change in family income, family size, or need~~ adhere to the process delineated in Section 18084.3. ~~When updating the family's application~~ At recertification, the contractor shall make every effort to maximize convenience for the parent and avoid requiring the parent to take time off from work or a work activity.

(c) Notwithstanding Subsection (b), all families shall be recertified for eligibility and need at least once each contract period and at intervals not less than twelve months (12) as follows: Once initially certified or recertified, families shall be deemed to meet all eligibility and need requirements for twelve (12) months, shall receive services for not less than twelve (12) months, but may be subject to transfer between stages as set forth in these regulations.

~~(1) Families receiving care where the need is child protective services shall be recertified at least once every 6 months;~~

~~(2) All other families shall be recertified at intervals not to exceed 12 months.~~

(d) If the California Department of Education notifies the contractor that funds are not available to serve the existing Stage 3 caseload and it is necessary to displace families, families shall be displaced in reverse order of enrollment priority based on income levels pursuant to Education Code section 8263(b)(2). When two or more families are in the same priority in relation to income, the family that has received care in Stage 3 for the shortest period of time shall have higher priority.