

**IC 12-17.2-3.5 Chapter 3.5. Eligibility of Child Care Provider to Receive Reimbursement Through Voucher Program**

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**IC 12-17.2-3.5-0.1 Application of certain amendments to chapter**

Sec. 0.1. The amendments made to section 10 of this chapter by P.L.131-2002 apply to a provider that begins receiving voucher payments after June 30, 2002.

*As added by P.L.220-2011, SEC.268.*

**IC 12-17.2-3.5-1 Applicability of chapter**

Sec. 1. (a) This chapter applies to all child care providers regardless of whether a provider is required to be licensed or registered under this article. However, except as provided in section 4(b) of this chapter, a child care provider that is licensed under IC 12-17.2-4 or IC 12-17.2-5 is considered to be in compliance with this chapter.

(b) If a school age child care program that is:

- (1) described in IC 12-17.2-2-8(10); and
- (2) located in a school building;

is determined to be in compliance with a requirement of this chapter by another state regulatory authority, the school age child care program is considered to be in compliance with the requirement under this chapter.

*As added by P.L.247-2001, SEC.3. Amended by P.L.18-2003, SEC.8; P.L.16-2006, SEC.2; P.L.124-2007, SEC.4; P.L.225-2013, SEC.6.*

**IC 12-17.2-3.5-1.2 "Child care program"**

Sec. 1.2. As used in this chapter, "child care program" refers to the activities provided for children during the time that children are in the care of a provider.  
*As added by P.L.18-2003, SEC.9.*

**IC 12-17.2-3.5-1.3 "Employed"; "employee"; "employment"; "employs"**

Sec. 1.3. As used in this chapter, "employed", "employee", "employment", or "employs" refers to services performed by an individual for compensation. The terms do not refer to services performed by an individual who volunteers, including an individual who provides assistance and receives an allowance, a stipend, or other support under the federal Foster Grandparent Program (42 U.S.C. 5011).  
*As added by P.L.18-2003, SEC.10. Amended by P.L.7-2015, SEC.37.*

**IC 12-17.2-3.5-1.7 Repealed**

*As added by P.L.18-2003, SEC.11. Repealed by P.L.225-2013, SEC.7.*

**IC 12-17.2-3.5-2 Repealed**

*As added by P.L.247-2001, SEC.3. Repealed by P.L.18-2003, SEC.34.*

**IC 12-17.2-3.5-3 "Voucher payment"**

Sec. 3. As used in this chapter, "voucher payment" means payment for child care through the federal Child Care and Development Fund voucher program administered under 45 CFR 98 and 45 CFR 99.  
*As added by P.L.247-2001, SEC.3.*

**IC 12-17.2-3.5-4 Ineligible providers; enforcement actions; decertification; division consideration of religious instruction or activity**

- Sec. 4. (a) A provider is ineligible to receive a voucher payment if the provider:
- (1) has been convicted of a:
    - (A) felony:
      - (i) related to the health or safety of a child;
      - (ii) that is a sex offense (as defined in IC 11-8-8-5.2);
      - (iii) that is a dangerous felony; or
      - (iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;
    - (B) misdemeanor related to:
      - (i) the health or safety of a child; or
      - (ii) welfare fraud;
    - (C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or
    - (D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;
  - (2) allows an individual who has been convicted of a crime specified under subdivision (1) to reside with the provider, if the provider operates a child care program in the provider's home;
  - (3) employs an individual or allows an individual to volunteer who:
    - (A) may be on the premises of the facility where the provider operates a child care program during operating hours of the child care program; and
    - (B) has been convicted of a crime specified in subdivision (1);

- (4) has had a revocation of eligibility under this chapter during the immediately preceding two (2) years; or
- (5) fails to meet the requirements of this chapter.

(b) A provider whose:

- (1) license under IC 12-17.2-4 or IC 12-17.2-5; or
- (2) compliance with this chapter;

is subject to an enforcement action is ineligible to receive a voucher payment, regardless of whether the provider meets the requirements of this chapter, until the outcome of any proceeding under IC 4-21.5 reflects a final determination that the provider's license or eligibility is in good standing.

(c) If the division decertifies a provider under this chapter, the provider:

- (1) may reapply for eligibility to receive a voucher payment at any time that the provider is able to demonstrate compliance with this chapter; and
- (2) is not eligible to receive a voucher payment under this chapter until the provider receives notice from the division that the provider's application under subdivision (1) has been approved.

(d) In determining whether a provider meets the requirements of this chapter, the division may not consider religious instruction or activities.

*As added by P.L.247-2001, SEC.3. Amended by P.L.109-2002, SEC.2; P.L.18-2003, SEC.12; P.L.287-2013, SEC.6; P.L.225-2013, SEC.8; P.L.171-2014, SEC.2; P.L.121-2020, SEC.2.*

#### **IC 12-17.2-3.5-4.1 Perpetrators ineligible**

Sec. 4.1. (a) This section applies to the following:

- (1) A provider, if the provider is an individual.
- (2) If a provider operates a child care program in the provider's home, an individual who resides with the provider and who is at least eighteen (18) years of age.
- (3) An individual who:
  - (A) is employed; or
  - (B) volunteers;

at the facility where a provider operates a child care program.

(b) If information used by the division under IC 31-33-26-16(a)(10) or obtained by the division under section 18 of this chapter indicates that an individual described in subsection (a) has been named as a perpetrator, the following are ineligible to receive a voucher payment:

- (1) The individual.
- (2) A provider in whose home the individual resides if the provider operates a child care program in the provider's home.
- (3) A provider that:
  - (A) employs the individual; or
  - (B) allows the individual to volunteer;at the facility where the provider operates a child care program.

*As added by P.L.109-2002, SEC.3. Amended by P.L.18-2003, SEC.13; P.L.225-2013, SEC.9.*

#### **IC 12-17.2-3.5-5 Facility requirements; activities; nutrition; educational materials**

Sec. 5. (a) A provider shall have:

- (1) working smoke detectors that meet the standards adopted by rule for smoke detectors in licensed child care homes; and
- (2) hot and cold running water;

in the area of the facility where the provider operates a child care program.

(b) A provider shall do all of the following:

- (1) Meet sanitation standards for bathrooms and handwashing, as established by the

division.

(2) If the county, city, or town in which the facility where the provider operates a child care program is located:

(A) requires a business permit or license to operate a child care home in the county, city, or town, provide to the division proof that the provider has a valid business permit or license; or

(B) does not require a business permit or license described in clause (A), provide to the division a statement from the county, city, or town that a business permit or license is not required.

(c) Beginning July 1, 2015, a provider shall have, and maintain compliance with, a written policy describing the practice of the provider concerning the following:

(1) Safe conditions in the facility and on the grounds.

(2) Safety of motor vehicles used to transport children.

(d) At the time a provider establishes the written policy required by subsection (c), and at the time of any subsequent change to the written policy, the provider shall:

(1) file with the division;

(2) post in a public location in the facility where the provider operates a child care program; and

(3) provide to the parent or guardian of each child in the care of the provider;

a copy of the written policy or change. The written policy required by subsection (c) is not subject to approval by the division.

(e) Beginning July 1, 2015, a provider shall make available daily activities appropriate to the age, developmental needs, interests, and number of children in the care of the provider, including the following:

(1) Both active and quiet play. The provider may include the use of safe, age-appropriate toys, games, and equipment for indoor and outdoor play.

(2) Daily outdoor play, unless one (1) of the following applies:

(A) Severity of the weather poses a safety or health hazard.

(B) A health related reason for a child to remain indoors is documented by the child's parent, guardian, or physician.

(f) Beginning July 1, 2015, a provider shall make available to each child in the provider's care the following:

(1) Appropriately timed, nutritious meals and snacks in a quantity sufficient to meet the needs of the child.

(2) Drinking water at all times.

(g) The division may make available to a provider educational materials related to quality of child care, as follows:

(1) The materials are available at no cost to the provider.

(2) The materials are appropriate to the ages of children cared for by the provider.

(3) The materials are current.

(4) The materials are available electronically.

(5) Use of the materials by the provider is voluntary.

*As added by P.L.247-2001, SEC.3. Amended by P.L.131-2002, SEC.1; P.L.18-2003, SEC.14; P.L.225-2013, SEC.10; P.L.171-2014, SEC.3; P.L.25-2018, SEC.1.*

#### **IC 12-17.2-3.5-5.5 Supervision of children; ratios and group sizes**

Sec. 5.5. (a) A provider shall ensure that a child in the provider's care is continually supervised by a caregiver.

(b) After June 30, 2015, a provider that cares for:

(1) not more than sixteen (16) children at a facility where the provider operates a child care program shall maintain:

(A) a ratio of children to caregivers in the same proportions as specified in the child to staff ratio requirements; and

(B) the same group sizes as specified in the group size requirements; that apply to a child care home under IC 12-17.2-5; and  
(2) more than sixteen (16) children at a facility where the provider operates a child care program shall maintain:

(A) a ratio of children to caregivers in the same proportions as specified in the child to staff ratio requirements; and

(B) the same group sizes as specified in the group size requirements; that apply to a child care center under IC 12-17.2-4.

*As added by P.L.18-2003, SEC.15. Amended by P.L.162-2005, SEC.2; P.L.225-2013, SEC.11; P.L.171-2014, SEC.4; P.L.53-2018, SEC.5.*

#### **IC 12-17.2-3.5-6 Tuberculosis screening**

Sec. 6. (a) A provider who is an individual shall have an intradermal tuberculosis test before the provider is eligible for a voucher payment.

(b) A provider shall assure that an individual who is at least eighteen (18) years of age and:

(1) who, if the provider operates a child care program in the provider's home, resides with the provider; or

(2) who:

(A) is employed; or

(B) volunteers;

as a caregiver at the facility where the provider operates a child care program;

has an intradermal tuberculosis test before the individual resides with the provider or is employed or allowed to volunteer as a caregiver.

(c) A provider shall maintain documentation of an annual health assessment by a physician reflecting the results of symptom screening for tuberculosis for:

(1) the provider, if the provider is an individual; and

(2) an individual described in subsection (b);

who has a history of latent or active tuberculosis.

(d) A provider shall provide the results of the tests and screening required under this section to the division upon request.

*As added by P.L.247-2001, SEC.3. Amended by P.L.18-2003, SEC.16.*

#### **IC 12-17.2-3.5-7 Parent notification plan; discipline policy; parent visits**

Sec. 7. (a) A provider shall have written plans for notifying parents regarding the following:

(1) Illness, serious injury, or death of the provider.

(2) Care in an emergency.

(3) Emergency evacuation.

The plan required under subdivision (3) must be posted in a conspicuous location in the facility where the provider operates a child care program.

(b) A provider shall:

(1) maintain a written child discipline policy;

(2) ensure that all employees and volunteers follow the child discipline policy;

(3) provide to the parent or legal guardian of each child cared for by the provider a written copy of the child discipline policy; and

(4) maintain in each child's file a copy of the child discipline policy that has been signed by the parent or legal guardian described in subdivision (3).

(c) A provider shall allow unscheduled visits by a parent or legal guardian to a facility where the provider operates a child care program during the hours the child care program is in operation.

*As added by P.L.247-2001, SEC.3. Amended by P.L.18-2003, SEC.17; P.L.225-2013, SEC.12.*

**IC 12-17.2-3.5-8 Caregiver requirements; education; documentation**

Sec. 8. (a) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by a provider shall be present at all times when a child is in the care of the provider.

(b) The following apply to an individual who is employed or volunteers as a caregiver at a facility where a provider operates a child care program:

(1) The individual shall maintain current certification in first aid applicable to all age groups of children cared for by the provider.

(2) If the individual is:

(A) at least eighteen (18) years of age, the individual may act as a caregiver without supervision of another caregiver; or

(B) less than eighteen (18) years of age, the individual may act as a caregiver only if the individual:

(i) is at least fourteen (14) years of age; and

(ii) is, at all times when child care is provided, directly supervised by a caregiver who is at least eighteen (18) years of age.

(3) Before beginning employment or volunteer duties, the individual must receive a formal orientation to the facility and the child care program.

(4) Beginning July 1, 2015, unless the provider is a parent, stepparent, guardian, custodian, or other relative to each child in the care of the provider, the individual annually must receive at least twelve (12) hours of continuing education approved by the division and related to the age appropriate educational development, care, and safety of children. The hours of continuing education required by this subdivision may include the training described in this chapter concerning child abuse detection and prevention, first aid, cardiopulmonary resuscitation, and safe sleeping practices.

(5) Not more than three (3) months after the individual begins employment or volunteer duties, the individual must receive training approved by the division concerning child abuse detection and prevention.

(c) A provider shall:

(1) maintain at the facility where the provider operates a child care program documentation of all training and completion of continuing education required by this section; and

(2) make the documentation available to the division upon request.

*As added by P.L.247-2001, SEC.3. Amended by P.L.47-2002, SEC.1; P.L.18-2003, SEC.18; P.L.225-2013, SEC.13; P.L.171-2014, SEC.5.*

**IC 12-17.2-3.5-8.5 Child abuse or neglect reporting**

Sec. 8.5. (a) A provider shall provide to all employees and volunteers of the provider the written material prepared and made available by the division under subsection (c).

(b) An employee or a volunteer of a provider who has reason to believe that a child in the provider's care is a victim of child abuse or neglect shall make a report as required under IC 31-33-5.

(c) The division shall do the following:

(1) Prepare written material specifying the following:

(A) The duty to report known or suspected child abuse or neglect under IC 31-33-5.

(B) That knowing failure to make a report required by:

(i) IC 31-33-5-1;

(ii) IC 31-33-5-2; or

(iii) IC 31-33-5-2.5;

is a Class B misdemeanor under IC 31-33-22-1.

(2) Make the written material under subdivision (1) available to providers.

*As added by P.L.171-2014, SEC.6. Amended by P.L.183-2017, SEC.2.*

**IC 12-17.2-3.5-9 Communication devices**

Sec. 9. (a) A provider shall have at least one (1) working telephone in each facility where the provider operates a child care program.

(b) A provider shall, in each facility where the provider operates a child care program, have a communication device (which may be the telephone required by subsection (a)) that is:

- (1) approved by the division; and
- (2) compatible with an automated time and attendance tracking system approved by the division.

*As added by P.L.247-2001, SEC.3. Amended by P.L.18-2003, SEC.19; P.L.171-2014, SEC.7.*

**IC 12-17.2-3.5-10 Fire safety requirements**

Sec. 10. (a) A facility where a provider operates a child care program must have two (2) exits that:

- (1) do not require passage through a:
  - (A) garage; or
  - (B) storage area;where hazardous materials are stored;
- (2) are not windows;
- (3) are on different sides of the facility;
- (4) are not blocked; and
- (5) are operable from the inside without the use of a key or any special knowledge.

(b) A provider shall:

- (1) conduct monthly documented fire drills:
  - (A) in accordance with the rules of the fire prevention and building safety commission; and
  - (B) that include complete evacuation of all:
    - (i) children; and
    - (ii) adults who provide child care;in the facility;
- (2) maintain documentation of all fire drills conducted during the immediately preceding twelve (12) month period, including:
  - (A) the date and time of the fire drill;
  - (B) the name of the individual who conducted the fire drill;
  - (C) the weather conditions at the time of the fire drill; and
  - (D) the amount of time required to fully evacuate the facility; and
- (3) maintain a two and one-half (2 1/2) pound or greater ABC multiple purpose fire extinguisher:
  - (A) on each floor of the facility; and
  - (B) in the kitchen area of the facility;

in each facility where the provider operates a child care program.

*As added by P.L.247-2001, SEC.3. Amended by P.L.131-2002, SEC.2; P.L.18-2003, SEC.20.*

**IC 12-17.2-3.5-11 Safety**

Sec. 11. (a) A provider shall provide for a safe environment by ensuring that no conditions exist in or on the grounds of the facility where the provider operates a child care program that would endanger the health, safety, or welfare of the children, including ensuring that the following items are placed in areas that are inaccessible to the children in the provider's care:

- (1) Firearms, ammunition, and other weapons.
- (2) Poisons, chemicals, bleach, and cleaning materials.
- (3) Medications.

(b) A provider shall do the following with respect to transporting children away from the

facility where the provider operates a child care program:

- (1) Obtain written permission from the child's parent or legal guardian to transport the child.
- (2) Ensure that the child is transported only by an employee or a volunteer who:
  - (A) is at least eighteen (18) years of age;
  - (B) holds a valid driver's license; and
  - (C) transports the child in a properly licensed and insured motor vehicle.

*As added by P.L.247-2001, SEC.3. Amended by P.L.225-2013, SEC.14; P.L.25-2018, SEC.2.*

#### **IC 12-17.2-3.5-11.1 Immunizations**

Sec. 11.1. (a) After December 31, 2002, a provider shall maintain and annually update documentation provided by the physician of each child who is cared for in a facility where the provider operates a child care program that the child has received complete age appropriate immunizations, including:

- (1) conjugated pneumococcal vaccine; and
- (2) varicella vaccine or a demonstrated immunity to varicella.

The state department of health shall determine for each age level the immunizations that constitute complete age appropriate immunizations.

(b) A provider meets the requirement of subsection (a) if:

- (1) a child's parent:
  - (A) objects to immunizations for religious reasons; and
  - (B) provides documentation of the parent's objection;
- (2) the child's physician provides documentation of a medical reason the child should not be immunized; or
- (3) the child's physician provides documentation that the child is currently in the process of receiving complete age appropriate immunizations;

and the provider maintains and annually updates the documentation provided by the parent or physician under this subsection.

*As added by P.L.121-2002, SEC.1 and P.L.131-2002, SEC.3. Amended by P.L.18-2003, SEC.21.*

#### **IC 12-17.2-3.5-12 National criminal history background check; temporary eligibility; exceptions; fees or costs; meet certain requirements by July 1, 2014**

Sec. 12. (a) Except as provided in subsection (f) and subject to subsection (g), a provider shall, at no expense to the state, do the following:

- (1) If the provider is an individual, submit the provider's fingerprints for a national criminal history background check by the Federal Bureau of Investigation.
- (2) If the provider operates a child care program in the provider's home, require:
  - (A) the provider's spouse; and
  - (B) any individual who resides with the provider and who is:
    - (i) at least eighteen (18) years of age; or
    - (ii) less than eighteen (18) years of age but has previously been waived from juvenile court to adult court;

to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation.

(3) Require any individual who:

- (A) is employed or volunteers; and
- (B) may be present on the premises of the facility where the provider operates a child care program during operating hours of the child care program;

to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation.

A provider shall require an individual described in subdivision (3) to submit fingerprints for



a national criminal history background check before the individual is employed or allowed to volunteer and every three (3) years thereafter that the individual is continuously employed or allowed to volunteer.

(b) In addition to the requirement under subsection (a), a provider shall report to the division any:

- (1) police investigations;
- (2) arrests; and
- (3) criminal convictions;

of which the provider is aware regarding any of the persons listed in subsection (a).

(c) A provider that meets the other eligibility requirements of this chapter is temporarily eligible to receive voucher payments until the division receives the national criminal history background check required under subsection (a) from the state police department if:

(1) the provider:

(A) has:

- (i) submitted; or
  - (ii) required an individual described in subsection (a)(2) or (a)(3) to submit fingerprints for a national criminal history background check as required under subsection (a); and
- (B) obtains a local criminal history for the individuals described in subsection (a) from each individual's local law enforcement agency before the individual is employed or allowed to volunteer; and

(2) the local criminal history does not reveal that an individual has been convicted of a:

(A) felony:

- (i) related to the health or safety of a child;
  - (ii) that is a sex offense (as defined in IC 11-8-8-5.2);
  - (iii) that is a dangerous felony; or
  - (iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;
- (B) misdemeanor related to the health or safety of a child;
- (C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or
- (D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.

(d) A provider is ineligible to receive a voucher payment if an individual for whom a national criminal history background check is required under this section has been convicted of a:

(1) felony:

- (A) related to the health or safety of a child;
- (B) that is a sex offense (as defined in IC 11-8-8-5.2);
- (C) that is a dangerous felony; or
- (D) that is not a felony otherwise described in clauses (A) through (C), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;

(2) misdemeanor related to the health or safety of a child;

(3) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or of a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a

child; or

(4) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, or of a substantially similar offense committed in another jurisdiction, if the offense is directly or indirectly related to jeopardizing the health or safety of a child;

until the individual is dismissed from employment or volunteer service at the facility where the provider operates a child care program or no longer resides with the provider.

(e) A provider shall maintain a written policy requiring an individual for whom a national criminal history background check is required under this section to report any criminal convictions of the individual to the provider.

(f) Notwithstanding IC 10-13-3-28, the state police department may not charge a church or religious society any fees or costs (other than fees or costs charged by the Federal Bureau of Investigation or a private entity) for responding to a request for a release of a national criminal history background check record of a prospective or current employee or a prospective or current volunteer of a child care ministry registered under IC 12-17.2-6 if the conditions set forth in IC 10-13-3-36(f) are met.

(g) A provider that holds a license or registration under this article on July 1, 2013, shall, at no expense to the state, meet the requirements under subsection (a) not later than July 1, 2014.

*As added by P.L.247-2001, SEC.3. Amended by P.L.109-2002, SEC.4; P.L.18-2003, SEC.22; P.L.6-2004, SEC.1; P.L.142-2006, SEC.2; P.L.287-2013, SEC.7; P.L.121-2020, SEC.3.*

#### **IC 12-17.2-3.5-12.1 Drug testing**

Sec. 12.1. (a) A provider shall, at no expense to the state, maintain and make available to the division upon request a copy of drug testing results for:

- (1) the provider, if the provider is an individual;
- (2) if the provider operates a child care program in the provider's home, any individual who resides with the provider and who is at least eighteen (18) years of age; and
- (3) an individual who:
  - (A) is employed; or
  - (B) volunteers;

as a caregiver at the facility where the provider operates a child care program.

The drug testing results for an individual described in subdivision (3) must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A provider that is not a child care ministry or a child care center shall maintain a written policy specifying the following:

- (1) That the:
  - (A) use of:
    - (i) tobacco;
    - (ii) alcohol; or
    - (iii) a potentially toxic substance in a manner other than the substance's intended purpose; and
  - (B) use or possession of an illegal substance;

is prohibited in the facility where the provider operates a child care program when child care is being provided.

- (2) That drug testing of individuals who serve as caregivers will be:
  - (A) performed based on a protocol established or approved by the division; and
  - (B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(c) A provider that is a child care ministry or a child care center shall maintain a written policy specifying the following:

- (1) That the:

- (A) use of:
  - (i) tobacco; or
  - (ii) a potentially toxic substance in a manner other than the substance's intended purpose; and
- (B) use or possession of alcohol or an illegal substance;

is prohibited in the facility where the provider operates a child care program when child care is being provided.

(2) That drug testing of individuals who serve as caregivers will be:

- (A) performed based on a protocol established or approved by the division; and
- (B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(d) If:

- (1) the drug testing results obtained under subsection (a), (b), or (c) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or (c)(1)(B); or
- (2) an individual refuses to submit to a drug test;

the provider is ineligible to receive a voucher payment until the individual is suspended or terminated from employment or volunteer service at the facility or no longer resides with the provider.

(e) A provider that suspends an individual described in subsection (d) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or (c)(1)(B).

(f) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.

*As added by P.L.109-2002, SEC.5. Amended by P.L.18-2003, SEC.23; P.L.6-2004, SEC.2; P.L.16-2006, SEC.3.*

### **IC 12-17.2-3.5-12.5 Safe sleeping practices; violations; penalties**

Sec. 12.5. (a) A provider that cares for children who are less than twelve (12) months of age shall:

- (1) complete the training course provided or approved by the division under IC 12-17.2-2-1(10) concerning safe sleeping practices; and
- (2) ensure that all caregivers of children who are less than twelve (12) months of age follow safe sleeping practices.

(b) If a provider violates subsection (a), the division may do the following with respect to each violation determined during an inspection of the facility where the provider operates a child care program:

- (1) On the first inspection during which a violation is determined during a licensure period, issue a formal warning letter stating the division's intent to take administrative action and impose a civil penalty for any future violation.
- (2) On the second inspection during which a violation is determined during a licensure period, impose a civil penalty of fifty dollars (\$50) for each violation determined during the inspection.
- (3) On the third inspection during which a violation is determined during a licensure period, impose a civil penalty of seventy-five dollars (\$75) for each violation determined during the inspection.
- (4) On the fourth inspection during which a violation is determined during a licensure period:
  - (A) decertify the provider for not more than six (6) months; and
  - (B) impose a civil penalty of one hundred dollars (\$100) for each violation determined during the inspection.
- (5) On the fifth inspection during which a violation is determined during a licensure

period:

- (A) decertify the provider for one (1) year; and
- (B) impose a civil penalty of two hundred fifty dollars (\$250) for each violation determined during the inspection.

(c) The division shall send to the provider written notice:

- (1) of an action taken under subsection (b), specifying the reason for the action and amount of any monetary civil penalty; and
- (2) that failure to pay any monetary civil penalty may result in decertification of the provider for not more than two (2) years.

(d) The division shall deposit all civil penalties collected under this section in the division of family resources child care fund established by IC 12-17.2-2-3.

(e) In addition to the actions described in subsection (b), the division may seek further disciplinary action provided for under this article, as determined by the director.

*As added by P.L.53-2018, SEC.6.*

#### **IC 12-17.2-3.5-13 Local step ahead councils**

Sec. 13. A local step ahead council may not require a child care ministry to meet any minimum standards in addition to the standards described in this chapter unless the additional standards are approved by the:

- (1) general assembly; or
- (2) division.

*As added by P.L.247-2001, SEC.3.*

#### **IC 12-17.2-3.5-14 Administrative review**

Sec. 14. (a) Notice of a determination made under this chapter must be provided under IC 4-21.5-3-6.

(b) A person affected by a determination made under this chapter may seek administrative review under IC 4-21.5-3-7.

*As added by P.L.109-2002, SEC.6.*

#### **IC 12-17.2-3.5-14.5 Develop provider rate reimbursement schedule; incentive to meet standards of quality**

Sec. 14.5. Not later than July 1, 2017, the division shall develop a provider rate reimbursement schedule that uses money appropriated by the general assembly as an incentive for providers that are eligible to receive voucher payments under this chapter to meet the standards of quality recognized by a Level 3 or Level 4 Paths to QUALITY program rating.

*As added by P.L.184-2017, SEC.11.*

#### **IC 12-17.2-3.5-15 Rulemaking**

Sec. 15. The division shall adopt rules under IC 4-22-2 to implement this chapter.

*As added by P.L.18-2003, SEC.24.*

#### **IC 12-17.2-3.5-16 Decertification and revocation of eligibility**

Sec. 16. (a) The division may, according to rules adopted under IC 4-22-2, decertify a provider for any of the following reasons:

- (1) The provider fails to comply with this chapter.
- (2) The provider refuses to allow, during normal business hours, the division or an agent of the division to inspect the facility where the provider operates a child care program.

(b) A provider is ineligible, and the division may revoke for a period of not less than two (2) years from the date on which a final determination is made under IC 4-21.5 a provider's eligibility, to receive a voucher payment under this chapter for any of the following reasons:

(1) The provider is determined by the division to have made false statements in the provider's:

- (A) application for eligibility to receive a voucher payment; or
- (B) records required by the division;

under this chapter.

(2) Credible allegations of fraud have been made against the provider, as determined by the division.

(3) Criminal charges of welfare fraud have been filed against the provider.

(4) Allegations of welfare fraud committed by the provider have been substantiated by the division.

*As added by P.L.225-2013, SEC.15. Amended by P.L.171-2014, SEC.8.*

#### **IC 12-17.2-3.5-17 Imminent threats to children**

Sec. 17. (a) A provider is ineligible to receive a voucher payment under this chapter if any of the following conditions exist, posing an imminent threat to the life or well-being of a child in the care of the provider at a facility where the provider operates a child care program:

(1) Building damage due to:

- (A) earthquake;
- (B) flooding or water damage;
- (C) tornado;
- (D) severe wind;
- (E) ice storm;
- (F) fire;
- (G) lead contamination; or
- (H) asbestos.

(2) Sewage problems as follows:

- (A) Sewage backup.
- (B) Toilets cannot be flushed or are overflowing.
- (C) Sewage system is not operating properly.

(3) Inadequate or unsafe water supply as follows:

- (A) Contaminated water supply.
- (B) Water supply not functioning.

(4) No electricity in the building.

(5) Heating system problems.

(6) Gas, carbon monoxide, or other noxious gases leak.

(7) Filthy conditions.

(8) Rodent, roach, or vermin infestation.

(9) Building renovation occurring in a room or area occupied by children.

(10) Building condition that is structurally unsafe.

(11) Lack of supervision that results in the death or serious injury of a child.

(12) The presence at the facility where the provider operates a child care program of an individual who is, based on the results of a criminal history background check required by this chapter, prohibited under this chapter from being present at the facility.

(13) The presence of firearms, ammunition, or other weapons in a place that is accessible to children.

(b) If an employee or agent of the division determines that a condition described in subsection (a) exists at a facility where a provider that is currently eligible to receive a voucher payment under this chapter operates a child care program, the division shall:

- (1) issue an emergency or another temporary order under IC 4-21.5-4 decertifying the provider; and
- (2) contact the parent or guardian of each child in the care of the provider to inform the parent or guardian:

- (A) that the division has issued an order decertifying the provider; and
- (B) of the reason for the decertification;

pending the outcome of proceedings conducted under section 14 of this chapter. However, a provider's eligibility may be reinstated in accordance with subsection (e).

(c) An emergency or other temporary order issued by an employee or agent of the division must be approved by the director.

(d) An approval under subsection (c) may be communicated orally to the employee or agent issuing the order. However, the division shall maintain a written record of the approval.

(e) If, within the fifteen (15) day period beginning on the date on which an order is issued under subsection (b), the provider:

- (1) submits to the division a remediation plan that is approved for implementation by the division; and
- (2) completes the remediation plan to the satisfaction of the division;

the order issued under this section is void and the provider's eligibility to receive a voucher payment is reinstated.

*As added by P.L.225-2013, SEC.16. Amended by P.L.25-2018, SEC.3.*

#### **IC 12-17.2-3.5-18 Child abuse and neglect**

Sec. 18. (a) Upon receiving notice of a claim of abuse or neglect in a facility where a provider operates a child care program, the department of child services shall:

- (1) forward a copy of the notice to the division; and
- (2) conduct an investigation of the claim.

(b) After an investigation under subsection (a), the department of child services shall make a determination of whether abuse or neglect occurred at the facility.

(c) If the department of child services makes a determination under IC 31-33-8-12 that abuse or neglect at the facility is substantiated, the department shall send a copy of the department's report to the appropriate office of the division.

*As added by P.L.225-2013, SEC.17.*

#### **IC 12-17.2-3.5-19 Notifications of injury or death of child**

Sec. 19. (a) A provider shall immediately notify the parent or legal guardian of a child in the care of the provider concerning any of the following that occur during the hours that the child is in the care of the provider:

- (1) A:
  - (A) bodily injury (as defined in IC 35-31.5-2-29); or
  - (B) serious bodily injury (as defined in IC 35-31.5-2-292);of the child that requires the attention of a physician, dentist, registered nurse, licensed practical nurse, paramedic, or emergency medical technician.
- (2) The death of the child.

(b) A provider shall:

- (1) not more than twenty-four (24) hours after the occurrence of an incident described in subsection (a)(1); and
- (2) immediately after the occurrence of an incident described in subsection (a)(2);

notify the division of the occurrence of the incident.

(c) Information that:

- (1) is obtained under subsection (b);
- (2) concerns a bodily injury or serious bodily injury described in subsection (a)(1); and
- (3) could be used to identify an individual child;

is confidential.

*As added by P.L.171-2014, SEC.9.*