

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY SOCIAL SERVICES

Editor's Note: The following Notice of Exempt Rulemaking was reviewed per the Governor's Regulatory Review Plan memorandum, January 22, 2009. (See a copy of the memorandum in this issue on page 708.) The Governor's Office authorized the notice to proceed through the rulemaking process on March 31, 2009.

[R09-39]

PREAMBLE

- 1. Sections Affected**

Appendix A	<u>Rulemaking Action</u>
Appendix A	Repeal
	New Section
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statute the rules are implementing (specific):**

Authorizing statute: A.R.S. §§ 41-1005(A)(26); 41-1954(A)(3); 46-134(A)(12); 46-805
Implementing statute: A.R.S. §§ 46-801 through 46-810
Statute authorizing the exemption: A.R.S. § 41-1005(A)(25)
- 3. The effective date of the rules:**

These rules will be effective on April 1, 2009. This effective date will allow the Department to remain within appropriated and available funding levels for State Fiscal Year 2009.
- 4. A list of all previous notices appearing in the *Register* addressing the exempt rule:**

None
- 5. The name and address of agency personnel with whom persons may communicate regarding the rule:**

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Address:	1798 W. Jefferson St., Site Code 837A Phoenix, AZ 85007
	or
	P.O. Box 6123, Site Code 837A Phoenix, AZ 85005
Telephone:	(602) 542-6555
Fax:	(602) 542-6000
E-mail:	bbroeker@azdes.gov
- 6. An explanation of the rule, including the agency's reason for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**

Statute authorizing the exemption: A.R.S. § 41-1005(A)(25)

This rule will allow the Department to modify the Child Care Assistance program to remain within appropriated and available funding levels, by amending the co-pay schedule to eliminate the co-pay rate reduction for additional children in care. This will save an estimated \$600,000 for State Fiscal Year 2009, and an estimated \$2.5 million annually. The program change will increase parent fees for Child Care Assistance for an estimated 10,000 families with 15,000 children, and will correspondingly reduce DES reimbursement amounts to 6,500 contracted child care providers.

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7. **A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of the study and other supporting material:**
Not applicable
8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
9. **The summary of the economic, small business, and consumer impact:**
This rule will allow the Department to modify the Child Care Assistance program to remain within appropriated and available funding levels. This rulemaking will save an estimated \$600,000 for State Fiscal Year 2009, and an estimated \$2.5 million annually. The program change will increase parent fees for Child Care Assistance for an estimated 10,000 families with 15,000 children, and will correspondingly reduce DES reimbursement amounts to 6,500 contracted child care providers. This rulemaking is necessary as an immediate measure to allow the Department to remain within appropriated and available funding.
10. **A description of the changes between the proposed rule, including supplemental notices, and final rules (if applicable):**
Not applicable
11. **A summary of the principle comments and the agency response to them:**
Not applicable
12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable
13. **Incorporations by reference and their location in the rules:**
Not applicable
14. **Was this rule previously adopted as an emergency rule?**
No
15. **The full text of the rules follows:**

TITLE 6. ECONOMIC SECURITY

**CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY
SOCIAL SERVICES**

ARTICLE 49. CHILD CARE ASSISTANCE

Section

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

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ARIZONA DEPARTMENT OF ECONOMIC SECURITY

~~**CHILD CARE ASSISTANCE GROSS MONTHLY INCOME ELIGIBILITY CHART AND FEE SCHEDULE**~~

EFFECTIVE JULY 1, 2008

Family Size ↓	FEE LEVEL 1 (L1) INCOME MAXIMUM EQUAL TO OR LESS THAN 85% FPL*	FEE LEVEL 2 (L2) INCOME MAXIMUM EQUAL TO OR LESS THAN 100% FPL*	FEE LEVEL 3 (L3) INCOME- MAXIMUM EQUAL TO OR LESS THAN 135% FPL*	FEE LEVEL 4 (L4) INCOME MAXIMUM EQUAL TO OR LESS THAN 145% FPL*	FEE LEVEL 5 (L5) INCOME MAXIMUM EQUAL TO OR LESS THAN 155% FPL*	FEE LEVEL 6 (L6) INCOME- MAXIMUM EQUAL TO OR LESS THAN 165% FPL*
1	0—737	738—867	868—1,171	1,172—1,258	1,259—1,344	1,345—1,431
2	0—992	993—1,167	1,168—1,576	1,577—1,693	1,694—1,809	1,810—1,926
3	0—1,247	1,248—1,467	1,468—1,981	1,982—2,128	2,129—2,274	2,275—2,421
4	0—1,502	1,503—1,767	1,768—2,386	2,387—2,563	2,564—2,739	2,740—2,916

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5	0 – 1,757	1,758 – 2,067	2,068 – 2,791	2,792 – 2,998	2,999 – 3,204	3,205 – 3,411
6	0 – 2,012	2,013 – 2,367	2,368 – 3,196	3,197 – 3,433	3,434 – 3,669	3,670 – 3,906
7	0 – 2,267	2,268 – 2,667	2,668 – 3,601	3,602 – 3,868	3,869 – 4,134	4,135 – 4,401
8	0 – 2,522	2,523 – 2,967	2,968 – 4,006	4,007 – 4,303	4,304 – 4,599	4,600 – 4,896
9	0 – 2,777	2,778 – 3,267	3,268 – 4,411	4,412 – 4,738	4,739 – 5,064	5,065 – 5,391
10	0 – 3,032	3,033 – 3,567	3,568 – 4,816	4,817 – 5,173	5,174 – 5,529	5,530 – 5,886
11	0 – 3,287	3,288 – 3,867	3,868 – 5,221	5,222 – 5,608	5,609 – 5,994	5,995 – 6,381
12	0 – 3,542	3,543 – 4,167	4,168 – 5,626	5,627 – 6,043	6,044 – 6,459	6,460 – 6,876

MINIMUM REQUIRED CO-PAYMENTS

1st child in care	full day = \$1.00 part day = \$.50	full day = \$2.00 part day = \$1.00	full day = \$3.00 part day = \$1.50	full day = \$5.00 part day = \$2.50	full day = \$7.00 part day = \$3.50	full day = \$10.00 part day = \$5.00
2nd child in care	full day = \$.50 part day = \$.25	full day = \$1.00 part day = \$.50	full day = \$1.50 part day = \$.75	full day = \$2.50 part day = \$1.25	full day = \$3.50 part day = \$1.75	full day = \$5.00 part day = \$2.50
3rd child in care	full day = \$.50 part day = \$.25	full day = \$1.00 part day = \$.50	full day = \$1.50 part day = \$.75	full day = \$2.50 part day = \$1.25	full day = \$3.50 part day = \$1.75	full day = \$5.00 part day = \$2.50

For families receiving Transitional Child Care (TCC) there is no co-payment assigned beyond the 3rd child in the family

4th child in care	full day = \$.25 part day = \$.10	full day = \$.50 part day = \$.25	full day = \$.75 part day = \$.35	full day = \$1.25 part day = \$.60	full day = \$1.75 part day = \$.85	full day = \$2.50 part day = \$1.25
5th child in care	full day = \$.25 part day = \$.10	full day = \$.50 part day = \$.25	full day = \$.75 part day = \$.35	full day = \$1.25 part day = \$.60	full day = \$1.75 part day = \$.85	full day = \$2.50 part day = \$1.25
6th child in care	full day = \$.25 part day = \$.10	full day = \$.50 part day = \$.25	full day = \$.75 part day = \$.35	full day = \$1.25 part day = \$.60	full day = \$1.75 part day = \$.85	full day = \$2.50 part day = \$1.25

Full day = Six or more hours; Part day = Less than six hours.

Families receiving Child Care Assistance based on Child Protective Services/Foster Care, the Jobs Program or those who are receiving Cash Assistance (CA) and who are employed, may not have an assigned fee level and may not have a minimum required co-payment. However, all families may be responsible for charges above the minimum required co-payments if a provider's rates exceed allowable state reimbursement maximums and/or the provider has other additional charges.

* Federal Poverty Level (FPL) = US DHHS 2008 poverty guidelines. The Arizona state statutory limit for child care assistance is 165% of the Federal Poverty Level.

The Federal Child Care & Development Fund's statutory limit (for eligibility for child care assistance) is 85% of the state median income.

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

ARIZONA DEPARTMENT OF ECONOMIC SECURITY

CHILD CARE ASSISTANCE GROSS MONTHLY INCOME ELIGIBILITY CHART AND FEE SCHEDULE

EFFECTIVE APRIL 1, 2009

Family Size ↓	FEE LEVEL 1 (L1) INCOME MAXIMUM	FEE LEVEL 2 (L2) INCOME MAXIMUM	FEE LEVEL 3 (L3) INCOME MAXIMUM	FEE LEVEL 4 (L4) INCOME MAXIMUM	FEE LEVEL 5 (L5) INCOME MAXIMUM	FEE LEVEL 6 (L6) INCOME MAXIMUM
	EQUAL TO OR LESS THAN 85% FPL*	EQUAL TO OR LESS THAN 100% FPL*	EQUAL TO OR LESS THAN 135% FPL*	EQUAL TO OR LESS THAN 145% FPL*	EQUAL TO OR LESS THAN 155% FPL*	EQUAL TO OR LESS THAN 165% FPL*
1	0 – 737	738 – 867	868 – 1,171	1,172 – 1,258	1,259 – 1,344	1,345 – 1,431
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6	0 – 2,012	2,013 – 2,367	2,368 – 3,196	3,197 – 3,433	3,434 – 3,669	3,670 – 3,906
7	0 – 2,267	2,268 – 2,667	2,668 – 3,601	3,602 – 3,868	3,869 – 4,134	4,135 – 4,401
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Arizona Administrative Register / Secretary of State

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<u>9</u>	<u>0 – 2,777</u>	<u>2,778 – 3,267</u>	<u>3,268 – 4,411</u>	<u>4,412 – 4,738</u>	<u>4,739 – 5,064</u>	<u>5,065 – 5,391</u>
<u>10</u>	<u>0 – 3,032</u>	<u>3,033 – 3,567</u>	<u>3,568 – 4,816</u>	<u>4,817 – 5,173</u>	<u>5,174 – 5,529</u>	<u>5,530 – 5,886</u>
<u>11</u>	<u>0 – 3,287</u>	<u>3,288 – 3,867</u>	<u>3,868 – 5,221</u>	<u>5,222 – 5,608</u>	<u>5,609 – 5,994</u>	<u>5,995 – 6,381</u>
<u>12</u>	<u>0 – 3,542</u>	<u>3,543 – 4,167</u>	<u>4,168 – 5,626</u>	<u>5,627 – 6,043</u>	<u>6,044 – 6,459</u>	<u>6,460 – 6,876</u>

MINIMUM REQUIRED CO-PAYMENTS

<u>Per child in care</u>	<u>full day = \$1.00</u>	<u>full day = \$2.00</u>	<u>full day = \$3.00</u>	<u>full day = \$5.00</u>	<u>full day = \$7.00</u>	<u>full day = \$10.00</u>
	<u>part day = \$.50</u>	<u>part day = \$1.00</u>	<u>part day = \$1.50</u>	<u>part day = \$2.50</u>	<u>part day = \$3.50</u>	<u>part day = \$ 5.00</u>

Full day = Six or more hours; Part day = Less than six hours.

Families receiving Child Care Assistance based upon involvement with Child Protective Services/Foster Care, the Jobs Program, the Arizona Works Program or those who are receiving Cash Assistance (CA) and who are employed, may not have an assigned fee level and may not have a minimum required co-payment. However, all families may be responsible for charges above the minimum required co-payments if a provider's rates exceed allowable state reimbursement maximums and/or the provider has other additional charges.

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