

ARTICLE 67:47
CHILD CARE SERVICES

Chapter

- 67:47:01 Assistance with child care costs.
- 67:47:02 Child care assistance for ~~TANF~~ temporary assistance to needy families
program recipients.
- 67:47:03 Transitional child care assistance, Repealed.
- 67:47:04 Child care service grants, Repealed.

67:47:01:01. Definitions. ~~Terms As~~ used in this chapter ~~mean~~:

(1) "Adult exercising parental control;" means an individual who:

(a) Is 18 years of age or older ~~who is~~;

(b) Is neither the child's parent ~~or nor~~ guardian ~~nor residing~~;

(c) Does not reside with the child's parent or guardian, ~~but who has a signed statement~~; and

(d) Has permission from the child's parent or guardian ~~giving the individual authority~~ to exercise parental control of the child;

(2) "Child care certificate;" means a certificate issued by the ~~department~~ Department of Social Services to a recipient who uses the certificate as payment for child care services;

(3) "Child with special needs;" means a child who is ~~under age~~:

(a) Less than 18 years of age or ~~under age~~ less than 19 years of age if ~~still in~~ enrolled as a full-time student in a secondary school, and ~~who is~~ physically or mentally incapable of self-care; or a

(b) A child who is under court supervision;

(4) ~~"Head Start" or "Head Start Program," a program funded under the Head Start Act, 42 U.S.C.A. § 9831, et. seq., as amended to July 1, 2010, and carried out by a Head Start agency that provides ongoing, comprehensive child development services;~~

~~(5)~~ "Household;" ~~the~~ means:

(a) The parent or legal guardian, the child for whom child care services are being requested or provided, and other individuals ~~under age~~ less than 18 years of age for whom the parent or guardian is the adult exercising parental control and who are residing in the home; ~~when~~ and

~~(b)~~ If a child is placed with a guardian but the state maintains custody, the child and any of the child's siblings who are placed with the same guardian. ~~A household does not include a roomer, a boarder, or an individual over age 18 who is not the child's parent or legal guardian or is not the adult exercising parental control of the child;~~

~~(6)~~(5) "Informal provider;" means an individual who ~~is~~:

(a) Is a friend of the family that is requesting child care assistance ~~who does~~;

(b) Does not live with the recipient; ~~is at least~~;

(c) Is 18 years of age; or older; and ~~provides~~

(d) Provides care only for that recipient's child.

~~(7)~~(6) "In-home provider;" means an individual who provides child care services in the recipient's home;

~~(8)~~ "In-process provider," a provider who has submitted the required application forms to the department showing that the provider's intent is to become registered or licensed within 120 days;

~~(9)~~ "Primary provider," the child care provider having the highest calculated cost of child care a month for a family;

~~(10)~~(7) "Protective services;" ~~services~~ means:

(a) Services that are provided under a court order and which enable ~~an~~ a child, who is alleged or adjudicated to be abused or neglected ~~child~~, to remain in the recipient's home or in the home of another relative, a foster parent, or other suitable person, under the supervision and assistance of the court, the Department of Social Services, or another agency designated by the court; or

(b) Temporary services provided, as approved or recommended by the Department of Social Services, without ~~court~~ an order of the court;

~~(11)~~(8) "Recipient;" means an individual receiving child care benefits; and

~~(12)~~(9) "Relative provider;" an means an individual who is at least;

(a) 18 years of age or older; ~~the~~

(b) An aunt, uncle, grandparent, or great-grandparent of the child for whom child care assistance is being requested, or a person who is a sibling, if such sibling provider of the child for whom child care assistance is being requested and lives in a separate residence, of the child for whom child care assistance is being requested; and the

(c) The child care provider for that child; ~~and~~

~~(13) "TANF," temporary assistance to needy families.~~

Source: 18 SDR 112, effective January 9, 1992; 19 SDR 102, effective January 18, 1993; 21 SDR 86, effective November 6, 1994; 22 SDR 188, effective July 8, 1996; 24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 37 SDR 236, effective June 28, 2011; 40 SDR 229, effective June 30, 2014.

General Authority: SDCL 28-1-61(11).

Law Implemented: SDCL 28-1-60.

Cross Reference: ~~Definition of Head Start Program, 45 C.F.R. § 1301.2.~~

67:47:01:04. Required documentation. If a child is considered to be a child with special needs because of a physical or mental incapacity, the client ~~must~~ shall supply a ~~document,~~ from a physician, physician's assistant, nurse practitioner, psychologist, psychiatric social worker, special education teacher, physical or occupational therapist, or social worker ~~which attests,~~ a document attesting to the child's incapacity and ~~documents the~~ need for special accommodations.

If a child is considered to be a child with special needs because the child is under court supervision, the client ~~must~~ shall supply a copy of the court order requiring the child care.

~~If the individual exercises parental control of a child, the individual must supply a copy of the document signed by the child's parent or guardian which gives parental control to the individual.~~

Source: 18 SDR 112, effective January 9, 1992; 19 SDR 102, effective January 18, 1993; 21 SDR 86, effective November 6, 1994; 27 SDR 43, effective October 26, 2000.

General Authority: SDCL 28-1-61(1)(5).

Law Implemented: SDCL 28-1-60.

67:47:01:05. Income eligibility. Eligibility for child care services is based on annual income. Income is considered prospectively, based on the verification required in this section. As proof of income, a recipient ~~must~~ shall provide either copies of the last two pay stubs or employer verification of current wages. A recipient who is self-employed ~~must~~ shall provide a copy of the recipient's most recent income tax return. Depreciation is not an allowable expense and ~~will~~ must be added to the recipient's net profit or loss.

Income is considered as follows:

- (1) If the child resides with both parents, consider the child's unearned income and the income of both parents;
- (2) If the child resides with both parents but the parents are separated due to work or school, consider the child's unearned income and the income of both parents;
- (3) If the child resides with one parent, consider the child's unearned income and the income of the parent with whom the child resides;
- (4) If the child resides with one parent and that parent is cohabiting with another individual who is not the child's parent, consider the child's unearned income and the income of the parent;
- (5) If a child resides with one parent who is cohabiting with another individual and the parent and the cohabiting individual have a child in common, consider the unearned income of the children and the income of the parent and the cohabiting individual;
- (6) If the child resides with one parent and that parent is married to an individual who is not the child's parent, consider the child's unearned income and the income of both the parent and the parent's spouse;

(7) If the child resides with one parent a majority of the time but is residing with the second parent temporarily, consider the child's unearned income and the income of the second parent with whom the child has taken temporary residency;

(8) If the child resides with a guardian but custody is held by the ~~department~~ Department of Social Services or a tribe, consider only the child's unearned income;

(9) If the child resides with a guardian and the guardian has custody and is married, consider the child's unearned income and the income of the guardian and the guardian's spouse;

(10) If the child resides with an adult who is married and exercises parental control over the child, consider the child's unearned income and the income of the adult exercising parental control and the spouse of the adult exercising parental control; and

(11) If the child's parent resides with one or both parents, a guardian, or an adult exercising parental control, consider the child's unearned income and the earned and unearned income of the child's parent.

For the parent, guardian, or adult exercising parental control of the child, income includes ~~all earned and unearned income such as~~ child support, TANF temporary assistance to needy families, social security income, rental or lease income, interest income, work study, tips, retirement, unemployment benefits, wages, veterans benefits, ~~and~~ workers' compensation, and any other income, whether earned or unearned.

A household with an adjusted income that exceeds the lesser of 209 percent of the federal poverty level or 85 percent of the state median income, ~~whichever is less~~, is ineligible for child care assistance.

Source: 18 SDR 112, effective January 9, 1992; 19 SDR 102, effective January 18, 1993; 21 SDR 86, effective November 6, 1994; 22 SDR 188, effective July 8, 1996; 24 SDR 30, effective September 14, 1997; 27 SDR 43, effective October 26, 2000; 37 SDR 236, effective June 28, 2011; 43 SDR 31, effective September 12, 2016; 45 SDR 159, effective July 1, 2019.

General Authority: SDCL 28-1-61(1).

Law Implemented: SDCL 28-1-60.

Cross-References: Federal poverty level, § 67:11:01:03; Definition of "eligible child," 42 U.S.C. § 9858n(4) (July 1, 2016).

67:47:01:29. Department to maintain waiting list. If the ~~department~~ Department of Social Services does not have sufficient funding to add to the program an applicant who is eligible for child care assistance ~~to the program~~, the department shall place the eligible applicant on a waiting list. ~~An applicant must meet all eligibility requirements in order to be placed on the waiting list.~~ If a waiting list is developed, the department shall assign a level of priority.

The first level of priority ~~status~~ consists of:

- (1) ~~TANF recipients~~ A recipient of temporary assistance to needy families;
- (2) ~~Applicants~~ An applicant with children who have special needs;
- (3) ~~Applicants~~ An applicant who ~~meet~~ meets the definition of homeless; and
- (4) ~~Applicants~~ An applicant with children who will be receiving or need to receive protective services.

The second level of priority ~~status~~ consists of applicants whose monthly gross income remains below 209 percent of the federal poverty level.

~~Within~~ In the first level of priority, eligibility is prioritized by the date the completed application is received.

~~Within~~ In the second level of priority, eligibility is prioritized by income, in ascending order from the lowest to the highest of the federal poverty level, and by the date of application.

A change in an applicant's circumstances may warrant a change in an applicant's level of priority on the waiting list. If an applicant on the waiting list no longer meets the eligibility requirements, the applicant ~~shall~~ must be removed from the waiting list.

Source: 37 SDR 236, effective June 28, 2011; 44 SDR 42, effective September 11, 2017;
45 SDR 159, effective July 1, 2019.

General Authority: SDCL 28-1-61(1)(11).

Law Implemented: SDCL 28-1-60.

CHAPTER 67:47:02

CHILD CARE ASSISTANCE FOR ~~TANF~~ TEMPORARY

ASSISTANCE TO NEEDY FAMILIES PROGRAM RECIPIENTS

Section

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- 67:47:02:02 Application for child care services.
- 67:47:02:03 Certain ~~TANF~~ parents temporary assistance to needy families recipients eligible for child care assistance.
- 67:47:02:04 Limits.
- 67:47:02:05 Repealed.
- 67:47:02:06 Repealed.
- 67:47:02:07 Repealed.
- 67:47:02:08 Repealed.
- 67:47:02:09 Repealed.
- 67:47:02:09.01 Repealed.
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- 67:47:02:10 Repealed.
- 67:47:02:11 Repealed.
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67:47:02:14	Repealed.
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67:47:02:17	Repealed.
67:47:02:18	Repealed.
67:47:02:19	Repealed.
67:47:02:20	Repealed.
67:47:02:21	Applicable provisions of chapter 67:47:01.

67:47:02:01. Definitions. ~~Terms As~~ used in this chapter ~~mean:~~

(1) "Child with special needs;" means a child who is ~~under age:~~

(a) Less than 18½ years of age or ~~under age less than 19 and years of age if~~
enrolled as a full-time student in a secondary school; ~~and who is~~ physically or mentally
incapable of self-care; or a

(b) A child who is under court supervision; and

(2) "Dependent child;" means a child who ~~has not attained:~~

(a) Is less than 18 years of age, ~~or has not attained less than 19 years of age and is if~~
enrolled as a full-time student in a secondary school, ~~and who~~ has been deprived of support or
the care of a parent because of the parent's death, continued absence from the home, or physical
or mental incapacity; ~~or who is~~

(b) Is a child of unemployed parents ~~who is~~ and living with the parents in a residence
maintained by the parents as their home; ~~and~~

~~(3) "TANF," temporary assistance to needy families.~~

Source: 22 SDR 188, effective July 8, 1996; 24 SDR 30, effective September 14, 1997;
27 SDR 43, effective October 26, 2000; 37 SDR 236, effective June 28, 2011.

General Authority: SDCL 28-1-61(11).

Law Implemented: SDCL 28-1-60.

Cross-Reference: Definition of Head Start Program, 45 C.F.R. § ~~1301.2~~ 1305.2.

67:47:02:02. Application for child care services. A TANF parent desiring recipient of temporary assistance to needy families seeking child care assistance ~~must~~ shall submit a completed, ~~written~~, and signed application for assistance to the ~~department~~ Department of Social Services, within 90 days after the beginning of the approved activity, ~~which~~ that resulted in the need for child care services, ~~begins~~.

An application is void if the department requests additional information and the recipient fails to respond within 10 working days after the request.

Source: 22 SDR 188, effective July 8, 1996; 24 SDR 30, effective September 14, 1997; 37 SDR 236, effective June 28, 2011.

General Authority: SDCL 28-1-61(1).

Law Implemented: SDCL 28-1-60.

67:47:02:03. Certain ~~TANF~~ parents temporary assistance to needy families recipients eligible for child care assistance. A ~~TANF~~ parent recipient of temporary assistance to needy families may be eligible for child care assistance if ~~the following conditions are met:~~

(1) The parent is participating in an ~~approved~~ activity approved under ~~the provisions of~~ chapter 67:10:06;

(2) The parent has a child who is ~~under age~~ less than 13 years of age or ~~is a child with~~ who has special needs; and

(3) The child is:

(a) Is on ~~TANF~~ or temporary assistance to needy families, would be a dependent child if needy ~~or,~~ is receiving ~~SSI~~ supplemental security income, or ~~TANF~~ is receiving temporary assistance to needy families foster care; and ~~resides~~

(b) Resides with the parent.

Source: 22 SDR 188, effective July 8, 1996; 24 SDR 30, effective September 14, 1997.

General Authority: SDCL 28-1-61(1).

Law Implemented: SDCL 28-1-60.

67:47:02:04. Limits. Child care services covered under this chapter are limited to those times during which the parent is unavailable to care for the child because the parent is participating in an ~~approved activity~~ approved ~~under the provisions of chapter 67:10:06.~~

Child care services include the time the child is in care while the parent travels to and from the approved activity or training site.

Child care services do not include those care services provided by the dependent child's parent, caretaker relative, legal guardian, or a member of the TANF temporary assistance to needy families assistance unit.

Source: 22 SDR 188, effective July 8, 1996; 24 SDR 30, effective September 14, 1997.

General Authority: SDCL 28-1-61(1)(2).

Law Implemented: SDCL 28-1-60.