

## Office of Personnel Management

## § 792.202

must establish programs to assist employees with these problems in accordance with the legislation cited in § 792.101.

[50 FR 16692, Apr. 29, 1985]

### § 792.103 Coverage.

This part applies to all positions in Executive agencies as defined in section 105 of title 5 of the United States Code, and to those positions in the legislative and judicial branch of the Federal Government which are in the competitive service.

[49 FR 27921, July 9, 1984]

### § 792.104 Responsibilities of the Office of Personnel Management.

OPM shall provide overall leadership for the Government-wide alcoholism and drug abuse program in cooperation with the Secretary of Health and Human Services. To accomplish this, OPM shall develop and issue policy and program guidance, provide technical assistance to agencies, and determine the overall effectiveness of the Government-wide program, as well as those programs at individual agencies, based on program information required of agencies.

[49 FR 27921, July 9, 1984]

### § 792.105 Agency responsibilities.

(a) Agencies shall establish and administer programs through which practitioners who are knowledgeable in counseling and referral services can offer and provide employees who have alcohol and/or drug problems short-term counseling and/or referrals for long-term counseling or treatment.

(b) Agencies shall issue internal instructions implementing the requirements of 42 U.S.C. 290dd-1(a) and 290ee-1(a) and this regulation.

(c) Whenever a manager/supervisor becomes aware that a Federal employee's use of alcohol and/or drugs may be contributing to a performance or conduct deficiency, the manager/supervisor shall recommend counseling and refer the employee to the agency counseling program. If an employee fails to participate in any rehabilitative program or, having participated, the employee fails to bring conduct or performance up to satisfactory level, the

agency shall evaluate the employee accordingly and initiate an appropriate performance-based or adverse action.

(d) As requested, agencies shall annually submit a report to OPM on their counseling activities for the past fiscal year at a time, and in a manner, set by OPM.

[49 FR 27921, July 9, 1984, as amended at 50 FR 16692, Apr. 29, 1985]

## Subpart B—Agency Use of Appropriated Funds for Child Care Costs for Lower Income Employees—What Is the Child Care Subsidy Program Legislation and to Whom Does It Apply?

SOURCE: 68 FR 14128, Mar. 24, 2003, unless otherwise noted.

### § 792.200 What are the benefits of the child care subsidy program law?

Sec. 630 of Public Law 107-67 permits executive agencies to use appropriated funds to improve the affordability of child care for lower income Federal employees. The law applies to child care in the United States and in overseas locations. Employees can benefit from reduced child care rates at Federal child care centers, non-Federal child care centers, and in family child care homes for both full-time and part-time programs such as before and after school programs and daytime summer programs.

### § 792.201 What is the purpose of the child care subsidy program law?

The law is intended to make child care more affordable for lower income Federal employees through the use of agency appropriated funds.

### § 792.202 Do agencies have any notification responsibilities before initiating a child care subsidy program and when may agencies obligate funds for the program?

An agency intending to initiate a child care subsidy program must provide notice to the House Subcommittee on Treasury, Postal Service and General Government Appropriations; to the Senate Subcommittee on Treasury

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and General Government Appropriations; and to its appropriations subcommittees prior to the obligation of funds. The agency must also notify OPM of its intention. The agency must give notice to these Congressional committees and OPM annually, and funds may be obligated immediately after the agency has made these notifications.

### **§ 792.203 What materials are available to assist agencies with the process of establishing a child care subsidy program?**

OPM has developed guidance that contains samples of memoranda of understanding, marketing tools, child care subsidy program applications, and models for determining subsidy program eligibility. These materials are found in the "Guide for Implementing Child Care Legislation—Public Law 107-67, Sec. 630." The Guide is available on OPM's Web site, <http://www.opm.gov/wrkfam>. Agencies may also obtain a copy by writing to OPM at U.S. Office of Personnel Management, Office of Work/Life Programs, 1900 E St., NW., Washington, DC 20415.

### **§ 792.204 Are there any special reporting and oversight requirements related to the child care subsidy program law?**

Agencies are responsible for tracking the utilization of their funds and reporting the results to OPM. OPM will provide agencies the mandatory reporting form for this purpose. OPM also will produce an annual report for use by the agencies.

### **§ 792.205 Which agency funds may be used for the purpose of the child care subsidy program?**

Agencies are permitted to use appropriated funds, including revolving funds, that are otherwise available to them for salaries and expenses.

### **§ 792.206 Are agencies required to participate in this program?**

Agencies are not required to participate in this program. The decision to participate is left to the discretion of the agency. If an agency chooses to participate, it may not use funds other than those specified in § 792.205.

## 5 CFR Ch. I (1-1-07 Edition)

### **§ 792.207 When does the child care subsidy program law become effective and how may agencies take advantage of this law?**

This authority was made permanent on November 12, 2001. Agencies may now offer child care subsidy programs to their lower income Federal employees to help them reduce their child care costs.

### **§ 792.208 What is the definition of executive agency?**

The term *executive agency* is defined by section 105 of title 5, United States Code, but does not include the General Accounting Office.

### **§ 792.209 What is the definition of child care subsidy program?**

The term *child care subsidy program*, for the purposes of this subpart, means the program that results from the expenditure of agency funds to assist lower income Federal employees with child care costs, including such activities as: Determining which employees receive a subsidy and the size of the subsidy each employee receives; distributing agency funds to participating providers; and tracking and reporting to OPM information such as total cost and employee use of the program.

### **§ 792.210 What is the definition of civilian employee?**

The term *civilian employee*, for the purposes of this subpart, means all appointive positions in an executive agency (5 U.S.C. 105). It does not refer to private contractors hired by the agencies.

### **§ 792.211 What is the definition of a Federally sponsored child care center?**

The term *Federally sponsored child care center*, for the purposes of this subpart, is a child care center that is located in a building or space that is owned or leased by the Federal Government.

### **§ 792.212 What is the definition of a child care contractor?**

Section 630 of Public Law 107-67 provides that child care services provided by contract are encompassed by this new legislation. The term *child care*