

§ 792.223

that agency. OPM has provided guidance for determining eligibility in the "Guide for Implementing Child Care Legislation—Public Law 107-67, Sec. 630." This publication is available on OPM's Web site, <http://www.opm.gov/wrkfam>.

§ 792.223 Who determines if a Federal employee qualifies as a lower income employee and how is the program administered?

The agency or another appropriately identified organization determines eligibility using certain income and/or subsidy program criteria chosen by the agency. If the agency itself does not administer the program, it must select another organization to do so, using procedures that are in accordance with the Federal Acquisition Regulations. Regardless of what organization administers the program, the model for determining both the subsidy program eligibility and the amount of the subsidy is always determined by the Federal agency.

§ 792.224 Are child care subsidies paid to the Federal employee using the child care?

Agencies must pay the child care provider directly, unless one of the following exceptions applies:

- (a) If an agency chooses to have an organization administer its program (see § 792.223), the organization pays the child care provider;
- (b) For overseas locations, the agency may choose to pay the employee if the provider deals only in foreign currency; or
- (c) In unique circumstances, an agency may obtain written permission from OPM to do so.

§ 792.225 May an agency disburse funds to an organization that administers the child care subsidy program prior to the time the employee receives the child care services?

The agency may disburse funds to an organization that administers the child care subsidy program in one lump sum. The organization will be responsible for tracking the funds and providing the agency with regular reports. An agency contract should specify that any unex-

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pending funds shall be returned to the agency after the contract is completed.

§ 792.226 How may an agency disburse funds to a Federally sponsored child care center in a multi-tenant building?

In a multi-tenant building, funds from the agencies may be pooled together for the benefit of the employees qualified for the child care subsidy program.

§ 792.227 How long will the child care subsidy program be in effect for a Federal employee?

The child care subsidy program, in the form of a reduced child care cost rate, shall be in effect from the time the agency makes a decision for a particular Federal employee and the child is enrolled in the program until one of the following occurs:

- (a) The child is no longer enrolled in the program;
- (b) The employee no longer qualifies as a "lower income employee"; or
- (c) The agency no longer has a child care subsidy program.

§ 792.228 May these funds be used for children of Federal employees who are already enrolled in child care?

The funds may be used for children currently enrolled in child care as long as their families meet the child care subsidy program eligibility requirements established by the agency.

§ 792.229 May an agency place restrictions or requirements on the use of these funds, and may the agency restrict the disbursement of such funds to only one type of child care or to one location?

- (a) Depending on the agency's staffing needs and the employees' own needs, including the local availability of child care, the agency may choose to place restrictions on the use of its funds for the child care subsidy program. For example, an agency may decide to restrict use to the following:
 - (1) Federal employees who are full-time permanent employees;
 - (2) Federal employees using an agency on-site child care center;
 - (3) Federal employees using full-time child care; or

(4) Federal employees using child care in specific locations.

(a) With the exception of §792.229(c) an agency may determine whether and what restrictions to impose on the use of appropriated funds for the child care subsidy program.

(b) Agencies must not restrict the use of funds to apply to accredited child care providers only.

§792.230 May an agency use appropriated funds to improve the physical space of the family child care homes or child care centers?

An agency may not use appropriated funds under this program to improve the physical space of child care centers and family child care homes.

§792.231 Is an agency permitted to make advance child care subsidy program payments for an individual Federal employee?

An agency may choose to make advance payments to a child care provider in certain situations. Advance payments may be paid to the child care provider when the provider requires payment up to one month in advance of rendering services. Except in accordance with §792.225, an agency may not make advance payments for more than one month before the employee receives child care services.

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