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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.

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§ 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*

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contractor applies to an organization or individual providing child care services for which Federal families are eligible. These entities are commonly referred to as “child care providers” in the child care industry and they provide services under contract in center-based child care and family child care homes.

§ 792.213 What is the definition of a *child* for the purposes of this subpart?

For the purposes of this subpart, a *child* is considered to be:

- (a) A biological child who lives with the Federal employee;
- (b) An adopted child;
- (c) A stepchild;
- (d) A foster child;
- (e) A child for whom a judicial determination of support has been obtained; or
- (f) A child to whose support the Federal employee, who is a parent or legal guardian, makes regular and substantial contributions.

§ 792.214 Which children are eligible for this subsidy?

The law covers the children of Federal employees, excluding contract employees, from birth through age 13 and disabled children through age 18.

§ 792.215 What is the definition of a *child with disabilities*?

For the purpose of this subpart, a *child with disabilities* is defined as one who is unable to care for himself or herself based on a physical or mental incapacity as determined by a physician or licensed or certified psychologist.

§ 792.216 Are Federal employees with children who are enrolled in summer programs and part-time programs eligible for the child care subsidy program?

Federal employees with children (birth through age 13) and children with disabilities (children through age 18) who are enrolled in daytime summer programs and part-time programs such as before and after school programs are eligible for the child care subsidy program. The summer and part-time programs must be licensed and/or regulated.

§ 792.217 Are part-time Federal employees eligible for the child care subsidy program?

Federal employees who work part-time are eligible for the child care subsidy program.

§ 792.218 Does the law apply only to on-site Federal child care centers that are utilized by Federal families?

The bill includes non-Federal center-based child care as well as care in family child care homes, as long as the providers are licensed and/or regulated by the State and/or local regulating authorities.

§ 792.219 Are agencies required to negotiate with their Federal labor organizations concerning the implementation of this law?

Agencies are reminded of their obligation under 5 U.S.C. 7117 to negotiate or consult, as appropriate, with the exclusive representatives of their employees on the implementation of the regulations in this subpart.

§ 792.220 What are the requirements that child care providers must meet in order to participate in this program?

The provider, whether center-based or family child care, must be licensed and/or regulated by the State and, where applicable, by local authorities where the child care service is delivered. Outside of the United States, agencies may adopt or create criteria to ensure a child care center or family child care home is safe. Agencies must not restrict the use of funds to apply to accredited child care providers only.

§ 792.221 Is there a statutory cap on the amount or the percentage of child care costs that will be subsidized?

The law does not specify a cap on the amount or percentage of child care subsidy that may be subsidized.

§ 792.222 What is the definition of a *lower income Federal employee* and how is the amount of the child care subsidy determined?

Each agency decides who qualifies as a *lower income Federal employee* within