§ 410-w. Eligible families. 1. A social services district may use the funds allocated to it from the block grant to provide child care assistance to:

(a) families receiving public assistance when such child care assistance is necessary: to enable a parent or caretaker relative to engage in work, participate in work activities or perform a community service pursuant to title nine-B of article five of this chapter; to enable a teenage parent to attend high school or other equivalent training program; because the parent or caretaker relative is physically or mentally incapacitated; or because family duties away from home necessitate the parent or caretaker relative's absence; child day care shall be provided during breaks in activities. Such child day care shall be authorized for the period designated by the regulations of the department;

(b) families with incomes up to eighty-five percent of the state median income who are attempting through work activities to transition off of public assistance when such child care is necessary in order to enable a parent or caretaker relative to engage in work provided such families' public assistance has been terminated as a result of increased hours of or income from employment or increased income from child support payments or the family voluntarily ended assistance; provided that the family received public assistance at least three of the six months preceding the month in which eligibility for such assistance terminated or ended or provided that such family has received child care assistance under subdivision four of this section;

(c) families with incomes up to eighty-five percent of the state median income, which are determined in accordance with the regulations of the department to be at risk of becoming dependent on family assistance;

(d) families with incomes up to eighty-five percent of the state median income, who are attending a post secondary educational program; and

(e) other families with incomes up to eighty-five percent of the state median income in accordance with criteria established by the department.

2. For the purposes of this title, the term "state income standard" means the most recent federal income official poverty line (as defined

and annually revised by the federal office of management and budget) updated by the department for a family size of four and adjusted by the department for family size.

3. A social services district shall guarantee child care assistance to families in receipt of public assistance with children under thirteen years of age when such child care assistance is necessary for a parent or caretaker relative to engage in work or participate in work activities pursuant to the provisions of title nine-B of article five of this chapter. Child care assistance shall continue to be guaranteed for such a family for a period of twelve months or, upon approval by the office, may be provided by a social services district for a period up to twenty-four months, after the month in which the family's eligibility for public assistance has terminated or ended when such child care is necessary in order to enable the parent or caretaker relative to engage in work, provided that the family's public assistance has been terminated as a result of an increase in the hours of or income from employment or increased income from child support payments or because the family voluntarily ended assistance; that the family received public assistance in at least three of the six months preceding the month in which eligibility for such assistance terminated or ended or provided that such family has received child care assistance under subdivision four of this section; and that the family's income does not exceed eighty-five percent of the state median income. Such child day care shall recognize the need for continuity of care for the child and a district shall not move a child from an existing provider unless the participant consents to such move.

3-a. A local social services district may, upon notification to the office, utilize a presumptive eligibility standard to provide child care assistance, in accordance with this subdivision. The office of children and family services shall issue guidance regarding the preliminary eligibility criteria to be used by local social services districts utilizing a presumptive eligibility standard.

(a) A local social services district opting to utilize a presumptive eligibility standard, shall, upon receipt of an application for child care assistance, including all completed documentation required by the

district, complete a preliminary eligibility determination.

(b) If the family meets the preliminary eligibility criteria, the family shall be presumed eligible for child care assistance for the period from the date of the application to the date of the final eligibility determination.

(c) A local social services district may utilize child care block grant funds for the presumptive eligibility period to the extent permitted by federal law.

(d) If, upon final determination, the application for child care services is denied, the social services district shall send written notice to the applicant of the determination of ineligibility and of the applicant's right to a fair hearing in accordance with the regulations of the office.

4. (a) Local social services districts shall guarantee applicants who would otherwise be eligible for, or are recipients of, public assistance benefits and who are employed, the option to choose to receive continuing child day care subsidies in lieu of public assistance benefits, for such period of time as the recipient continues to be eligible for public assistance. For the purposes of this subdivision, an eligible applicant for, or recipient of, public assistance benefits and who is employed includes a person whose gross earnings equal, or are greater than, the required number of work hours times the state minimum wage. Recipients of child care subsidies under this subdivision who are no longer eligible for public assistance benefits, shall be eligible for transitional child care described in paragraph (b) of subdivision one of this section as if they had been recipients of public assistance.

(b) Nothing herein shall be construed to waive the right of an applicant who chooses to receive continuing child day care subsidies pursuant to this section from applying for ongoing public assistance.

5. (a) A family eligible for child care assistance pursuant to subdivision one of this section, unless such family voluntarily ends such assistance, shall be deemed eligible for a period of no less than twelve months from the date of the eligibility determination for such assistance, provided the family income does not exceed eighty-five percent of the state median income. A social services district may

extend this period to up to twenty-four months, provided the family income does not exceed eighty-five percent of the state median income.

(b) A family eligible for child care assistance under paragraph (a) of subdivision one of this section shall suffer no break in child care services and shall not be required to reapply for such assistance so long as eligibility under subdivision three of this section continues.

6. Notwithstanding any other provision of law, rule or regulation to the contrary, applicants for child care subsidy assistance shall be encouraged to obtain a child support order and shall be advised of the benefits of obtaining such orders. Provided however, no applicant for, or recipient of, child care assistance under this title shall be required to pursue, or to obtain, a court order for child support as a condition of eligibility for child care assistance.

7. For purposes of determining financial eligibility under this title, the earned income of a dependent child under the age of eighteen, who is not legally responsible for the child or children for which child care assistance is sought, shall be disregarded when determining the eligibility of a household for a child care subsidy.

8. Notwithstanding any other provision of law, rule or regulations to the contrary, a social services district that implements a plan amendment to the child care portion of its child and family services plan, either as part of an annual plan update, or through a separate plan amendment process, where such amendment reduces eligibility for, or increases the family share percentage of, families receiving child care services, or that implements the process for closing child care cases as set forth in the district's approved child and family services plan, due to the district determining that it cannot maintain its current caseload because all of the available funds are projected to be needed for open cases, shall provide all families whose eligibility for child care assistance or family share percentage will be impacted by such action with at least thirty days prior written notice of the action. Provided, however, that a family receiving assistance pursuant to this title shall not be required to contribute more than one percent of their income exceeding the federal poverty level.

9. Parents and caretakers who are otherwise eligible for child care assistance, and provided with such assistance, shall be able to utilize the assistance when care is necessary to enable them to sleep because they work non-traditional hours and have a child who is under the age of six and not in school for a full school day. The authorization for child care assistance shall be sufficient to allow the parent to obtain up to eight hours of sleep, as needed.

10. For the purposes of this title, the term "state median income" means the most recent state median income data published by the bureau of the census, for a family of the same size, updated by the department for a family size of four and adjusted by the department for family size.