DEPARTMENT OF HEALTH SERVICES
PUBLIC HEALTH LICENSING SERVICES
BUREAU OF CHILD CARE LICENSING
 # SP-023-PHL-CCL

DETERMINING WHETHER AN INDIVIDUAL PROVIDING CHILD CARE SERVICES IN A RESIDENTIAL SETTING IS REQUIRED TO BE CERTIFIED AS A CHILD CARE GROUP HOME

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes § 41-1033 for a review of the statement.

The purpose of this substantive policy statement is to notify the public how the Department determines whether an individual providing child care services in a residential setting is required to be certified as a child care group home under A.R.S. Title 36, Chapter 7.1, Article 4 and the rules for child care group homes.

A.R.S. § 36-897(1) states:

> "Child care group home" means a residential facility in which child care is regularly provided for compensation for periods of less than twenty-four hours per day for not less than five children but no more than ten children through the age of twelve years.

Initially, the Department determines whether child care services are being provided in a residential setting that is subject to certification. Under A.R.S. § 36-897.04(A)(1), child care services provided to children in the homes of the children's own parents are exempt from certification. Thus, an individual providing child care services in a residential setting is only required to be certified if the child care services are provided in a home other than the home of the children receiving the child care services.

Once the Department determines that child care services are being provided to children in a residential setting other than the homes of the children's parents, the Department determines whether the child care services are being provided:

1. Regularly,
2. For compensation,
3. For periods of less than 24 hours per day, and
4. For at least five and no more than 10 children through the age of 12 years who are not the children of the provider.

<u>Regularly</u>

"Regularly" means on a "regular basis," which is defined in A.A.C. R9-3-101(61) to mean "at recurring, fixed, or uniform intervals." An individual who occasionally cares for children upon the request of the children's parents is not caring for children "regularly" and is not required to be certified. An individual who cares for children every day or every week, according to a schedule established with the children's parents, is caring for children "regularly."

For Compensation

"Compensation" is defined in A.A.C. R9-3-101(21) to mean "money or other consideration, including goods, services, vouchers, time, government or public expenditures, government or public funding, or another benefit that is received as payment." An individual who receives no money or other tangible benefit in return for providing child care services is not providing child care "for compensation" and is not required to be certified. An individual who receives money or another benefit of any kind (goods, services, etc.) in return for providing child care services is providing child care services "for compensation."

Whether child care services are being provided to a particular child "for compensation" is determined when the child is accepted for care by the provider. A provider cannot change a child from "for compensation" to "not for compensation" in order to avoid the requirement to be certified. If compensation is being received on a given day for a specific child, that compensation counts for the entire day—it cannot be broken up to avoid having to be certified. A child for whom compensation is received on a given day counts toward the total number of children in care "for compensation" at any time that the child is present that day. This does not preclude having four children "for compensation" and then accepting another child "for compensation" on the same day after one of the original four leaves. It also does not preclude having four children "for compensation" in the morning and then accepting a different group of four children "for compensation" in the afternoon, after the original four leave.

For Periods of Less than 24 Hours Per Day

An individual who cares for another's children for twenty-four hours per day, such as in a foster care setting, is not required to be certified as a child care group home. An individual who cares for another's children for less than 24 hours per day, and who returns the children to the children's parents at the end of each care period, is providing child care services "for periods of less than 24 hours per day." If an individual who generally provides child care services for periods of less than 24 hours per day occasionally provides child care services to a child for a period of 24 hours per day, that alone does not relieve the individual from having to be certified.

For at Least Five and No More than 10 Children through the Age of 12 Years

An individual who always provides child care services for fewer than five children at a time is not providing care "for at least five, and no more than 10, children." Thus, an individual who provides child care services to four children of others every day of the week is not required to be certified. (An individual who provides child care services to more than 10 children of others is not eligible to be certified under A.R.S. Title 36, Chapter 7.1, Article 4, but would be required to be licensed as a child care facility under A.R.S. Title 36, Chapter 7.1, Article 1.)

In determining whether certification is necessary, a child is counted if the child is:

1. Not a child of the provider;
2. Not a resident at the child care group home;
3. Not older than 12 years of age;
4. Placed by a parent, including a staff member other than the provider, and accepted by the provider to receive child care services; and
5. Receiving child care services "for compensation."

As noted in the "For Compensation" section of this Statement, if compensation is received for a child at any time during a single day, it counts for the whole day, and the child will be considered "for compensation" at all times when the child is present on that day. As a result, the child will be counted toward both the minimum of four and the maximum of 10 at any time when the child is present that day.

Conclusion

If the Department determines that child care services are regularly being provided to children in a residential setting other than the homes of the children's parents, for compensation, for periods of less than 24 hours per day, and for at least five and no more than 10 children through the age of 12 years, the Department considers the residential facility to be subject to certification as a child care group home and takes action under A.R.S. § 36-897.09.

Effective February 1, 2015
Last Reviewed November 2019
Arizona Department of Health Services
Division of Public Health Licensing Services
Bureau of Child Care Licensing
150 North 18th Avenue, Suite 400
Phoenix, AZ 85007