CLIENT ALERTS & INSIGHTS

Benesch COVID-19 Outbreak: Ohio Temporary Pandemic Child Care Update

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On March 17, 2020, Governor Mike DeWine issued Executive order 2020-04D authorizing the Ohio Department of Job and Family Services ("ODJFS") to accept applications and begin issuing licenses for Temporary Pandemic Child Care Centers ("TPCCC"). The order contemplates the mandatory closure of currently operating child care centers across the state, an action the Governor has repeatedly stated is coming. This order permits both existing child care providers and other organizations to apply to provide child care to the children whose parents are employed providing health, safety and other essential services as defined by the Director of ODJFS. At this time, Ohio has not defined essential services and families must apply to ODJFS to determine "essential" status. It is likely that direct care health care workers would be included in the essential status but there is no Ohio definition for "essential" status specifically identifying the essential workers for which TPCCC could provide child care.

ODJFS has posted emergency rules for the new license category. OAC 5101:2-12-02-01 describes the basic requirements for a TPCCC license. Under this rule, both existing and new providers will be required to apply to ODJFS on form JFS 01258 Application for Temporary Pandemic Child Center Care License. For applicants not currently licensed, a pre licensing inspection will be required. Information on timing or scheduling for a pre-licensing inspection has not been disclosed at this time.

Issued rules require applicant centers to have an existing occupancy permit and a current fire inspection with 35 square feet of usable indoor floor space for each child to be served. Staff members, including owners and administrators, must submit a request for background checks and fingerprints pursuant to existing rules for child care staff. However, staff will be permitted to work once the background and fingerprint requests are submitted but may not be alone with children until the background check results have been completed and returned to the TPCCC to assure the children's safety. Staffing ratios are governed by emergency rule OAC 5101:2-12-18 and Appendix A of this rule. At least one staff member on site during all hours must be currently trained in CPR. No transportation or swimming will be permitted without ODJFS specific consent. Additional administrative and supervisory requirements are set forth in the emergency license rule.

The ODJFS Director has complete discretion regarding number of TPCCC licenses available and ODJFS is already working with known providers and hospitals to determine interest.

ODJFS has verbally expressed that reimbursement may be available to TPCCC's for all children served without regard to whether or not a child qualifies for publicly funded child care. Reimbursement amounts are not known at this time but it may be equivalent to the rates paid for

publicly funded children. As this is a fluid time, more specific information and guidance is expected to be issued by ODJFS as it becomes available.

More information can be found on the ODJFS Coronavirus Pandemic Child Care Information webpage.

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Benesch stands ready to assist with any questions as we closely follow COVID-19 developments and support client's response efforts.

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Please note that this information is current as of the date of this Client Alert, based on the available data. However, because COVID-19's status and updates related to the same are ongoing, we recommend real-time review of guidance distributed by the CDC and local officials.

