

Is your Family Day Care service complying with Family Assistance Law?



What is Family Assistance Law?

The Family Assistance Law is the basis for Commonwealth child care fee assistance, which includes Child Care Benefit (CCB) and Child Care Rebate (CCR). It is under Family Assistance Law that your family day care service is approved to administer child care fee assistance on behalf of families using the service.

Complying with Family Assistance Law for FDC Services is about two things:

- **Doing the right thing**
- **Showing that you are doing the right thing**



family
day care services
EDUCATION & SUPPORT PROJECT



INSURANCE



→ DO the right thing by having insurance

You must have current, appropriate insurance, including:

For your service:

- workers compensation insurance; and
- public liability insurance.

For your educators:

- the right insurance (depending upon if they are employees or educators).



→ SHOW that you have insurance

Show that you have insurance by having:

- records of insurance policies; and
- certificates of currency for these policies.

STAFF AND EDUCATORS



→ DO the right thing by having suitable educators/staff

Ensure the staff and educators of your service are, and continue to be, suitable people to provide child care regardless if they are directly employed or contracted.

Make sure they have:

- Expertise and experience in providing child care;
- Ability to provide quality child care; and
- Suitable backgrounds to provide care.

Do you know if they have:

- Convictions or findings of guilt for an offence?
- Any relevant criminal charges pending before court?



→ SHOW that your educators/staff are suitable

- Keep records of compliance with the Family Assistance Law, quality standards and other laws.
- Make sure they keep records of financial management.
- Keep records of things such as your staff and educators working with children checks and criminal history checks.

ABSENCES AND ATTENDANCES



→ DO the right thing by charging and reporting correctly

Only charge for care you can provide

Where your service charges an individual a fee for providing a session of care, your service must be able to provide care for that whole session. For example, do not report sessions of 8 hours per day, unless your service is actually able to provide care for the full 8 hours.

A child may not actually attend for the full 8 hours, but you must be able to provide care for the whole period if a family require it.

If your service cannot provide care for the full session, for example when an educator is not available for the full session, reduce the length of the sessions you report to reflect the period in which care was able to be provided.

Only charge for care when you provide it

- Do not report attendances or absences **before** the child has physically **started** attending your service in CCMS. A family is not

entitled to CCB until the first day the child attends the service

- Do not report attendances or absences **after** the child has permanently **stopped** attending your service in CCMS. A family is not entitled to CCB after the last day the child no longer physically attends the service.
- Do not report care for a child if your service has no arrangement with the family to provide care in CCMS. For example, you cannot report an absence on a day the child in question would not have normally attended.
- If a child physically attended for some part of a session, then that session should be reported as an attendance. If the child did not attend any part of the session, but the family was still charged a fee for that session, then it should be reported as an absence.
- The family must be genuinely liable for reported fees in order to be eligible for CCB, that is, it

must be the fee that the family is actually liable to pay under a commercial arrangement between the family and your service.

- If your service provides before school care and after school care, do not report full day sessions when those children are attending school. Also, before school care and after school care sessions need to be reported separately.

Report attendance records correctly

Report attendance records correctly in CCMS in order for CCMS to calculate CCB correctly. Specify:

- The correct start and end times of the sessions for which the parent is being charged;
- Whether each session is an attendance or an absence; and
- The total fees charged to each family for each session of care.

→ SHOW that you are charging and reporting correctly

- Provide regular written or electronic statements to each family using your service about their child's care usage, total fees and CCB paid.

- You have to do this at least once every three months, and within one month after the end of the statement period.

- Your service can issue statements more frequently if that suits your business and the needs of your families.





→ **WHAT** happens if you don't comply with Family Assistance Law?

The Family Assistance Law provides serious penalties if family day care services do not comply with their obligations. These penalties range from financial penalties to sanctions, such as the suspension or cancellation of the service's CCB approval or criminal investigation and prosecution.

WANT TO FIND OUT MORE?

● YOU CAN READ THE CHILD CARE HANDBOOK

The Child Care Service Handbook provides guidance and assistance to Child Care Benefit (CCB) approved child care services (including family day care) operating under the Child Care Management System (CCMS).

www.education.gov.au/child-care-service-handbook

● YOU CAN READ THE LAW

You can find the Family Assistance Law on the Australian Government's Department of Education website www.education.gov.au/family-assistance-law

● YOU CAN READ THE GUIDE TO THE LAW

The Family Assistance Guide aims to assist in understanding the law and its application. It contains definitions, eligibility criteria for payments, information on claiming and information on the legislation. <http://guides.dss.gov.au/family-assistance-guide>



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This project is being managed by NSW Family Day Care Association (lead agency), in partnership with Family Day Care Association Queensland.



For more information go to:
www.fdcsupport.org.au

DISCLAIMER

This is a general guide to some (but not all) of the legal obligations of FDC services approved for the purposes of the Family Assistance Law and is not a complete description of your legal obligations. This also does not cover all the legal obligations of approved FDC services. You should consult the relevant legislation for full details of your legal obligations. You may also wish to obtain your own independent legal advice.