

# CARE OF RELATIVES BY A FAMILY DAY CARE EDUCATOR

Under the new Child Care Package there is a **new rule** relating to the provision of care by a family day care educator to relatives, for example, by persons related to the children in care as a grandparent or great-grandparent, an aunty or uncle, or a cousin.

This is in addition to ongoing rules regarding care of educators' own children or their partners' children, or children for whom they have legal responsibility.

Under the Child Care Subsidy Minister's Rules, it is a condition for **continued service approval** that:

*"the provider ensures that less than 50% of the children to whom any family day care educator is providing care within any CCS fortnight at the service are related to the family day care educator as:*

- (a) a niece or nephew; or
- (b) a cousin; or
- (c) a grandchild (including a great grandchild)."

It is **important to note** that for the purposes of this rule:

- in most cases, relatives not listed above would not be treated as relatives for this provision;
- relatives of an FDC educator's partner (by either de facto or marriage) will be considered relatives of the FDC educator;
- the ratio of 'less than 50%' is applied across all of the children cared for across the whole fortnight and not to one particular session of care.

## SCENARIO 1

Deb is a family day care educator who lives in a small country town. Her operating hours are Monday – Friday from 6.30am – 6.00pm. She regularly cares for 11 children throughout a fortnight: 3 who come before and after school each day; and 7 pre-schoolers in total who attend between 1 and 3 days per week. On Wednesdays, Thursday and Fridays each week, she also cares for her grandson Jason, aged 3, when his mum, Deb's daughter-in-law Mel, works.

**QUESTION:** Do Deb's arrangements comply with the new rules regarding relative care?

**ANSWER:** Yes – given that her grandson is the only relative cared for out of a total of 11 children within a fortnight, this falls well under the required ratio of less than 50%.

## SCENARIO 2

Marta lives in a regional city and runs her newly established family day care business 4 days per week from 6.30am – 7.30pm. She has 2 regular children under school age who come 4 days per week. Her sister sends her 4 year old son (Marta's nephew) two days per week and would like to send her new baby (Marta's niece) when she returns to work in a few months time.

**QUESTION:** Under the new rules for relative care, would Marta be allowed to accept her niece as a regular for 2 days per week?

**ANSWER:** No – this would equate to a ratio of 50% of care provided to relatives within the fortnight. Marta would need to provide care to at least one more non-relative child on at least one day of the given fortnight to be able to care for both her niece and nephew.



How do absences impact on session reports and compliance with the FDC educator “less than 50% related children” requirement?

If a child (related or non-related) is enrolled in the service, but is unable to attend the session of care because of an allowable absence, the child should be:

- recorded as absent in the CCS fortnight sessions reports
- considered as having been “in care” for the purpose of calculating the proportion of care provided by the FDC educator in that CCS fortnight.



What happens if an FDC educator is caring for both related and non-related children in care and meets the ‘less than 50%’ rule, but then the non-related children exit the care arrangement, thereby changing the ratio?

It is important to note that the legislation **does not provide for a grace period** to allow care to continue to be eligible for CCS for relatives until new enrolments of non-relative children takes place.

The “care for less than 50% related children” requirement applies to each CCS fortnight. If an FDC educator has non-related children leave their service, then they still need to maintain the “care for less than 50% related children” for each CCS fortnight.

In the event that non-related children leave care, the FDC educator should approach their provider and make arrangements to ensure they will provide care for enough non-related children within the current CCS fortnight to meet the ‘less than 50%’ requirements.



How should family day care services manage this new rule?

The responsibility for the implementation of this rule rests with the approved provider, given that it pertains to a condition of continued approval.

Therefore services need to consider carefully how best to guarantee that any educator who cares for relatives specified under this new rule is compliant on an ongoing basis. Family Day Care Australia strongly encourages services to take a **risk management approach** to managing this new ratio.

Possible strategies may include:

- Updating your policies and procedures to reflect the requirements of the rule;
- Communicate the rule to all educators and consider direct contact with educators affected by the rule;
- Create a register for all educators to sign to confirm they are aware of the rule;
- Incorporate a question in your complying written agreement and enrolment notice asking if the child is related to the educator in order to capture the necessary information upfront;
- Ensure you have a log of any registered educators who are currently providing care to the specified relatives and the structure of that care across a given fortnight;
- Consider engaging with all eligible individuals (i.e. individuals entitled to child care payments for a child enrolled for care at your service) to ensure that they are both aware of the rule and check if they are affected;
- Establish a weekly or fortnightly reporting mechanism for educators to flag what, if any, care is being delivered to the specified relatives;
- Consider engaging with your new third party Child Care Subsidy System (CCSS) provider regarding the incorporation of a reporting mechanism into your attendance reporting system;
- Consider implementing an extended required notice period for exiting care arrangements.

In considering which strategies to implement, it is important to constructively engage with both educators and families affected by the rule to explore possible solutions, and to ensure that your service implements a ongoing monitoring system.

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