



Child Care Subsidy Minimum Operating Periods Special Circumstances Requirements

What are the minimum operating requirements?

Subsection 195C(1) of the *A New Tax System (Family Assistance) (Administration) Act 1999* (the Administration Act) sets out the minimum operating periods that approved services must operate for the purposes of the Child Care Subsidy (CCS). Ongoing CCS approval is conditional upon a service continuing to meet the relevant minimum operating period for its service type.

Subsection 195C(4) states that services may operate less than the specified minimum operating period where it is determined that special circumstances exist that impact the service's ability to meet the minimum operating requirements.

The minimum operating requirements for CCS service types are:

- 48 weeks per year for a centre based day care service (this includes long day care and occasional child care services), family day care and in home care.
- Seven (7) weeks per year for an outside school hours care (OSHC) service.

Former Budget Based Funded and Certain Specified Services

The minimum operating requirements do not apply to former (prior to 2 July 2018) non Child Care Benefit (CCB) Budget Based Funded (BBF) services, and a small number of certain specified services. Under the Minister's Rules, former BBFs and listed specified providers and services are not required to meet certain requirements, including the minimum operating period which applies to other service types. This means that these services, provided they were **not** CCB approved will not have to apply for a special circumstances determination to operate less than the minimum operating periods. However, former BBF services that **were** CCB approved prior to 2 July 2018 **must** meet the minimum operating periods or seek a special circumstance determination.

What is the intent of the special circumstances provision?

The special circumstance provision allows for services, in unusual circumstances, to operate for less than the minimum operating weeks where it would be unfair or unreasonable for a service to provide care for the minimum period. While the minimum operating requirements are designed to ensure services operate across the calendar year, the special circumstances provision recognises that demand, or other factors may not support a service operating at this capacity. The provision ensures services can respond flexibly to community demand to support workforce participation, particularly in rural and/or vulnerable and disadvantaged communities.

How are special circumstances assessed?

There are three key elements that are considered in determining whether special circumstances apply:

- Baseline Requirements
- Assessment Criteria
- Other Factors

All three elements will be considered when assessing whether a special circumstances determination is appropriate.

Baseline Requirements

A service must meet at least one (but may meet more) of the following baseline requirements in order to be assessed for a special circumstances determination:

Sole Provider - A service is a sole provider of child care in a particular area or the sole service of that CCS service type in the area i.e. sole centre based day care service.

Located in a regional or remote area - A service providing care in a geographic location of outer, regional, remote or very remote with an [ARIA accessibility/remoteness](#) rating of moderately accessible, remote or very remote.

Service of a particular type - A service catering to a particular group of families and/or a community who cannot reasonably attend another service. For example, a service that is providing care to migrant families or young teenage mothers who would not be able to readily access another service.

Socially and Financially Disadvantaged Communities – A service providing care to disadvantaged communities and families. For example, a service located in an area that has a score in the bottom two quintiles of [Socio-Economic Indexes for Areas \(SEIFA\) index](#) will be considered.

Unique Circumstances - A service experiencing other unique or very unusual factors. For example, consideration will be given to services operating (as at 30 June 2018) as Child Care Benefit (CCB) approved occasional care services (OCCs) and Community Support Funded Non-Formula Funded OCCs who were operating less than 48 weeks and would face significant barriers to changing their operating model within a reasonable timeframe.

Assessment Criteria

Once a baseline requirement has been established, services must meet at least one (but may meet more) of following assessment criteria:

Demand - A service needs to demonstrate that current community demand would not genuinely warrant the service operating for the prescribed minimum period, and a shorter operating period is required to avoid significant financial viability issues. For example, a service operating in a farming community with demand for care only required during the harvest season.

Infrastructure Constraints - A service needs to demonstrate that the community only has facilities available for use by the service for fewer than the minimum operating weeks for that service type. For example, a service that is co-located at a school to provide care to children with disabilities who could not readily access an alternative service.

Transition Issues - A service needs to demonstrate that they are able to meet the minimum operating weeks for their service type within a reasonable period of time. For example, a service only needs to operate 42 weeks for a period of six (6) months before it can sustainability move to operating 48 weeks a year.

Other Factors

Other factors regarding the service's operations will be considered before a determination can be made. These include:

- Whether the service would **not be eligible for CCS** if they operated fewer weeks per year (see [Services Ineligible for Child Care Subsidy Approval](#) fact sheet for a complete list of services that are not CCS eligible).
- Whether the service will be sustainable or more viable under the proposed number of operating weeks.

What would not be considered a special circumstance?

There are a number of cases where a service would not be considered for special circumstances. These include:

- A service operating in a metro area, providing care to a range of families that can reasonably access other services in the area.
- A service that is operating as a standalone preschool or kindergarten service seeking to only operate 40 weeks a year (this service would be ineligible under 194D(a) refer to [Services Ineligible for Child Care Subsidy Approval](#) fact sheet.

What information is required for a special circumstance request?

Services seeking a determination will need to complete a Special Circumstances Determination Request Form. The form will require services to identify whether they meet the baseline requirements and assessment criteria. In addition, the following information will also be required:

- Details about the service and the community.
- The service's current and proposed operating arrangements.
- Proposed timeframe for the determination (requested length should be between 12 months to three (3) years).
- How the service will be viable under the proposed operating arrangements.
- Services may also provide further details to support their request, this could include:
 - Statements or letters of support from the community, provider and/or legal entity about the particular need for the service.
 - Copies of service financial information such as a profit and loss statement.
 - Current service utilisation rates across the year (under current operating week's model).
 - Information about CCCF funding and/or other Commonwealth or State funding that the service is in receipt of.

How services can request a Special Circumstances Determination?

Before requesting a determination, services should have made every effort to change their current operations in order to meet the minimum operating period. Services should then contact their relevant Department of Education, Skills and Employment state or territory office to discuss their circumstances and, where relevant, submit a Special Circumstances Determination Form.

For More Information

If you need more information about the minimum operating periods or requesting a special circumstances determination, you contact the department's CCS Assessment Team by email at CCSAssessments@dese.gov.au