



## Summary of Final Child Care and Development Fund Ruling

On September 23, 2016, the Administration for Children and Families (ACF) published the final rule for the Child Care and Development Fund (CCDF) based on the 2014 Child Care and Development Block Grant Act (CCDBG). This final rule updates CCDF regulations for the first time since 1998.

The final CCDF rule includes regulatory changes on the following major provisions:

- Ensuring the health and safety of children in care;
- Helping parents make informed choices on access to quality care;
- Providing equal access to stable, high-quality care for low-income children, and
- Enhancing the quality of care and the early childhood workforce.

### Ensuring the Health and Safety of Children in Care

The final rule provides extensive details on the health and safety standards established under the CCDBG Act of 2014.

#### Trainings

The final rule provides clarification on the law's training requirements by mandating that all caregivers, teachers, and program directors of CCDF providers receive training minimum health and safety trainings that can be completed pre-service or during an orientation period. The law gives lead agencies considerable flexibility to determine what trainings are required pre-service and what's required during an orientation period. However, the final rule requires that either one of these two types of trainings be completed with three months of caring for children. During this three-month period, individuals who provide direct care for children (caregivers and teachers) must be under supervision until trainings in pediatric first aid, safe sleep practices, prevention of communicable diseases, poison prevention, and shaken baby syndrome/head trauma have been completed.

Also, the final rule encourages the lead state agency to document completion of both pre-service and orientation trainings that caregivers, teachers, and directors do not need to repeat the trainings if they changed jobs.

#### Background Checks

ACF interprets the statutory language included in the CCDBG Act of 2014 that all licensed, regulated, and registered child care providers eligible to deliver CCDF services (except relatives) are subject to the background check requirements. In addition, the final rule applies this requirement to all licensed, regulated, or registered providers, regardless of whether they receive CCDF funds and all license-exempt CCDF providers (with the exception of relatives).

The final rule confirms the compliance date of September 30, 2017 and that any staff who were employed prior to the enactment of the CCDBG Act of 2014 must submit their information to complete

a background check request by the same date. However, these staffers may continue to work while their background checks are being processed (and must be under supervision). In addition, if a staffer who's employed before enactment of the last CCDBG Act already met all the requirements defined in the 2014 law, then the provider will not have to submit a new request for five years following the date of completion of last background check.

### **Caring for Our Children Basics**

In the final rule, ACF encourages lead agencies who are looking for guidance on establishing health and safety standards consult *Caring for Our Children Basics*, which is a set of recommendations published by ACF and is intended to create a framework to align health and safety initiatives across all early childhood settings.

## **Helping Parents Make Informed Choices on Access to Quality Care**

### **Consumer Education**

The CCDBG Act of 2014 requires lead agencies to establish easy to use, consumer-friendly website that includes information on licensing of child care providers, the processes involved while conducting background checks, and the monitoring of child care providers. The website must also provide parents receiving CCDF assistance information on the quality of chosen providers.

In addition, the final rule requires that lead agencies provide parents benefitting from CCDF assistance with a consumer statement in both a hard copy and electronically, and it must include specific information about the selected child care provider.

With regards to the monitoring results, the final rule requires a minimum of three years of results being accessible via the website. Also, if there are monitoring reports online that are not in "plain language," that lead agencies will be required to post a plain language summary for each report in addition to the full monitoring report. ACF's justification on this decision is the position that parents should not have to interpret administrative code or advanced legal terms to determine if a provider allowed safety violations.

The final rule also modifies the newly mandated "hotline" for parental complaints by requiring lead agencies to provide parents receiving CCDF benefits with a consumer statement that includes all specific information on the selected child care provider. This includes all health and safety requirements, as well as licensing, and it must include the number for the hotline for parents to submit complaints about providers. In addition, it must also have contact information for local resource and referral agencies that can assist parents in enrolling their children in quality child care programs.

The final rule also requires lead agencies to demonstrate how it will monitor and respond to complaints in its CCDF state implementation plan, and it should include plans for both CCDF and non-CCDF providers.

## Providing Equal Access to High-Quality Care

### **New Subsidy Regulations**

ACF's final rule includes changes to several policies with regard to increased average subsidy payments. ACF believes that payments to child care providers will increase and that may have an impact on a state's annual budget. However, the Administration did not receive any comments from state agencies with regards to a cost estimate.

The final rule includes three policies that ACF believes will have "budget impacts" on state agencies:

- Setting payment rates based on the most recent market rate survey, or alternative methodology, as well as at rates to cover health, safety, quality, and staffing requirements;
- Separating (or delinking) payments that are tied to a child's occasional or excessive absences by either paying based on enrollment, paying in full if a child attendance rate is at least 85 percent annually, or providing full coverage if a child is absent no more than five days per month; and
- Adopting payment practices of child care providers who do not receive CCDF payments, including paying on both a part-time and full-time basis.

### **Income Eligibility**

The final rule provides clarification for eligibility for child care services. First, with regard to income eligibility, ACF added a sentence clarifying that the State Median Income (SMI) used to determine eligibility levels must be based on the most recent SMI data provided by the U.S. Census Bureau. In addition, the final rule acknowledges that some states establish eligibility thresholds via Area Median Income (AMI) to account for living standards across various geographical regions. The final rule allows for the use of AMI in eligibility determination; however, states that do must also report the threshold in terms of SMI and ensure that thresholds based on AMI are at or below 85 percent of SMI.

### **12-Month Eligibility**

The final rule reiterates the new statute creating a minimum eligibility period of 12 months for all CCDF families regardless of changes in the family income, as long as it does not exceed 85 percent of SMI or temporary changes in work, education, or training activities. In other words, as long as a family doesn't exceed its SMI threshold, lead agencies are prohibited from terminating CCDF assistance.

ACF defines "temporary change" to include at a minimum:

- Absences from work due to a parent's illness or the need to care for a sick relative, including circumstances where leave is not granted by an employer;
- Interruption of work for a "seasonal" employee not working a full calendar year;
- Student holidays for parents seeking college degrees or training certificates;

- Any reduction in work, training, or education hours as long as the parent is still working or going to college on a part-time basis; and
- Any halt in work, education, or training that doesn't exceed three months or any longer period of time established by a state.

With regards to the last bullet, the final rule clarifies that during the three-month period, families must receive at least the same level of assistance they were prior to the halt in work, education, or training.

### **Absence Days**

The final rule establishes 85 percent, or five or fewer days, as the benchmark for providers with regards to receiving full payment. This threshold was selected because it aligns with Head Start's policy. The final rule does not require CCDF providers to address systemic absenteeism; however, the final rule does not require providers to pay for all days when children are absent, and each state must work with providers on creating a policy that best addresses this issue.

## **Enhancing the Quality of Care and the Early Childhood Workforce**

### **Enforcement of Licensing and Health and Safety Requirements**

The final rule clarifies the statute, as defined under the CCDBG Act of 2014, with regards to inspection of both licensed and licensed-exempt CCDF providers:

- The final rule interprets what's required under the new law with regard to pre-licensure inspections, and any licensed provider that did not previously receive a pre-inspection must now be inspected prior serving children receiving CCDF assistance.
- ACF declined to expand the requirement for unannounced, annual inspections to all licensed child care providers, regardless of whether they received CCDF funds or not. However, the final rule encourages states to conduct these types of inspections for non-CCDF providers.
- CCDBG Act of 2014 does not require unannounced inspections of licensed-exempt CCDF providers; however, in the final rule, ACF encourages states to conduct these types of visits as it effective in helping providers with a history of compliance issues align with the new requirements.
- ACF declined to require monitoring inspections as a result of complaints from parents, however, it reiterated that states must keep a record of complaints as required under the current law. In addition, the final rule requires states to establish a reporting process for complaints.
- The final rule requires states to coordinate with other Federal and local organizations that conduct monitoring activities. Some of the potential partners suggested by ACF include QRIS, Head Start, and the Child and Adult Care Food Program.
- The final rule requires states to have an "option" to development monitoring requires for home-based child care programs, and the provision gives states great flexibility on conducting more targeted inspections. States are encouraged to develop procedures or engaging parents on monitoring and inspection practices.

- The final rule maintains the requirement that individuals who are licensing inspectors have received the necessary training, including health and safety standards.
- The CCDBG Act of 2014 required states to ensure the ratio of inspectors to providers was in accordance with Federal, state, and local law. The final rule expands the mandate to include tribal and territory law.

### **Reporting of Serious Injuries and Deaths**

The final rule requires child care providers to report to a designated state, territorial, or tribal entity, any serious injuries or deaths of child occurring in child care. It also requires that a state establish a reporting process (including via a hotline) for parents to submit complaints about child care providers, to maintain a record of substantiated parent complaints, and to make information regarding such complaints available.

The final rule addresses CCAoA's comments that ACF was not providing specific direction as to how child care providers should respond to complaints, as well as who should bear responsibility for investigating and responding to allegations.

ACF decided to give maximum flexibility to providers on design a system that works best for their program, and did not include any additional requirements in the final rule.

### **Child Care Resource and Referral System**

As a reminder, the CCDBG Act of 2014 allows and suggests that lead agencies use CCDF funds for CCR&Rs to assist with consumer education activities. The final rule includes new statutory language that "allows lead agencies to spend funds to establish or support a system of local or regional child care resource and referral organizations that is coordinated, to the extent determined by the lead agency, by a statewide public or private nonprofit, community-based or regionally based, local child care resource and referral organization."

ACF again addresses CCAoA's comment on recommending that the community relationships that have been built over the past decades by state and local CCR&Rs be utilized as a foundation for any initiatives designed to improve the information provided to consumers, as well as expanding the reach of services. The final rule agrees with CCAoA's position and recommends CCR&R networks assist lead agencies meeting the expanded requirements under the new law.

### **FY 2019-2021 State CCDF Plans**

According to the final ruling, states must submit the next multi-year CCDF plan by July 2018, with an effective date of October 1, 2018.