



Paperwork Reduction Project
Office of Management and Budget
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Attn: Desk Officer for the Administration for Children and Families

From: Helen Blank, Karen Schulman, and Julie Vogtman, National Women's Law Center
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Re: Child Care and Development Fund Plan for States/Territories for FFY 2016-2018 (ACF-118), OMB No.: 0970-0114

Date: February 27, 2015

CLASP and the National Women's Law Center greatly appreciate the opportunity to provide comments on the draft FY 2016-2018 Child Care and Development Fund State/Territory Plan Preprint. As the first plan that states and territories must complete following the enactment of the Child Care and Development Block Grant (CCDBG) reauthorization, the preprint allows the Office of Child Care (OCC) the opportunity to emphasize key goals of the legislation, highlight significant changes, and encourage states to adopt policies that will best help achieve the legislation's objectives. We commend your efforts to create this preprint in a very short time period and offer the following recommendations to build upon your work.

As you know, the CCDBG Act of 2014 offers states an important opportunity to make widespread changes to their child care subsidy systems. To seize this opportunity, it will be essential for states to take the time to articulate a vision and goals they hope to achieve through the reauthorization, as well as to assess current administrative policies and practices and examine data to better understand where their current system supports their goals and where it falls short. While implementation must begin now, large-scale system reform cannot be achieved in a few months, and many changes will require several years. We are pleased that, with the preprint, states will be able to lay out their implementation plans as they move toward compliance with the new law. We recommend that OCC encourage states to adopt a comprehensive, long-term strategy for implementing this legislation.

We have the following general comments and recommendations for the preprint:

- To improve clarity around OCC’s expectations for compliance, follow-up questions regarding implementation of a particular policy requirement should always immediately follow the initial question about whether a state is in compliance with that policy. In the current preprint draft, there are some cases in which states are asked to indicate if they are in compliance with a particular policy requirement, immediately followed by a set of questions about their plans to implement the policy if they are not currently in compliance. However, in other cases, the relevant set of questions regarding implementation plans appears only after several additional questions following the initial compliance inquiry.
- In general, states should be asked to describe *how* they plan to comply with a requirement, rather than simply *whether* they are compliant (yes or no) with a requirement.
- The preprint should more clearly identify where questions refer to requirements under the federal law versus state choices (see specific suggestions below). In many cases, states have maintained cumbersome policies under the mistaken belief that such approaches are necessitated by federal requirements, when in fact states are free to remove such barriers to child care assistance.
- The preprint should consistently include legislative references when the plan requests information that is related to provisions in the CCDBG law.
- The preprint should consistently indicate when it is referring to or requesting information related to a provision under the new law, to draw states’ attention to changes and new requirements under the reauthorization.
- The preprint does not need to specify when there has not been a change in the law. The current draft indicates in some places where a requirement is not new, but unless the preprint consistently indicates all cases where a requirement is not new, this may create confusion for states.

We also have specific recommendations to improve a number of individual components of the preprint, which follow in a detailed list below. Key recommendations include changes that would encourage states to take steps toward achieving the critical objectives of the law by:

- Clarifying language on eligibility determination and redetermination to minimize burdens for families in obtaining and retaining child care assistance, which helps promote continuity of care (see recommendations for Section 3.3).
- Helping to define reasonable co-payments for families, which prevents co-payments from creating financial strains for families or deterring them from receiving child care assistance (see recommendations for Section 3.4).
- Offering guidance on how to design payment practices that more closely resemble generally accepted practices, which helps ensure child care providers are willing to serve families receiving child care assistance and thus increases families’ options for care (see recommendations for Section 4.5).

Introduction

On page 4, we recommend adding the language in *italics* below in order to encourage states to adopt a more comprehensive vision in implementing the reauthorization law:

The Administration for Children and Families (ACF) re-designed the CCDF Plan to assist State and Territory grantees to plan for full implementation of the law. We recognize that the CCDBG Act of 2014 includes a significant number of changes, some of which are straightforward to implement, while others are complex and will be phased-in over several years. The level of effort needed for implementation will vary across the country depending on the number of changes a State needs to make. *We encourage all States and Territories to take the time to think systemically and consider large-scale changes to advance a coherent vision for their child care programs and achieve the goals of the reauthorization—that is, to improve the health, safety, and quality of child care and improve low-income working families’ access to child care assistance.* Some States and Territories will need time to enact changes through their State legislatures or rulemaking processes. In addition, some requirements will take time to fully operationalize. ACF plans to work with States and Territories to ensure that adoption and implementation of these important changes is done in a thoughtful and comprehensive manner.

CCDF Leadership and Coordination with Relevant Systems

1. We recommend adding an initial section *prior to* 1.1 that asks States to describe their overall goals and objectives for reauthorization:

- **Reauthorization Priority Goals:** In this section, Lead Agencies are asked to identify top priority goals and/or objectives for reauthorization and strategies to achieve them. These goals and/or objectives may relate to specific provisions in the law or represent overarching goals for their early childhood systems, such as better aligning child care with other early education programs, reducing administrative burden on families and agencies, or making the subsidy system fair to providers. These goals/objectives may require substantial time to achieve. We encourage States/Territories to begin with a thorough assessment of their existing policies, procedures, and available administrative data, as well as how policies and procedures are implemented and experienced by workers, clients, and providers. This assessment may consider the child care subsidy program’s access and reach, the size of the gaps between current state quality and safety provisions and what is required by the reauthorization law, major concerns with the current program that could be improved, and so on. Such an assessment should include soliciting information from as many perspectives as possible. This assessment can provide a road map for state choices during implementation.
- **Describe the State/Territory’s priority goals/objectives for reauthorization:** Provide a broad description of what you plan to accomplish in your State/Territory.
- **Describe the steps you will take to support full implementation of these goals/objectives:**
 - Broad stakeholder input, such as surveys and focus groups
 - Review of administrative policies and procedures
 - Analysis of administrative and other data
 - Use of data analysis for program improvement
 - Examination of business processes and technology

1.3.1. Those entities with which the Lead Agency is required to consult are marked as required, but we recommend that the “[Optional]” label for other entities be removed, because it is not necessary and may be interpreted as signaling that those entities are unimportant.

1.3.3. Each suggested strategy for making the State Plan available to the public should be listed separately, and states should be asked to indicate whether they are using each strategy and then provide more detail for each strategy used.

1.4.1. As in 1.3.1., the “[Optional]” label should be removed from those entities that are potential (but not required) CCDF service coordination partners.

1.6.1. This item should be slightly revised by replacing the “and” between “faith based organizations” and “community-based organizations” with “and/or” to make clear that partnerships with multiple agencies and entities are encouraged, but not required to occur across every example identified.

1.7.1. The list of required activities for a Child Care Resource and Referral Agency should be moved up to the introduction of the section in 1.7.

Family Engagement through Outreach and Consumer Education

2. The introduction to this section on family engagement, which lays out the consumer information that states must provide regarding, e.g., the health and safety of children in child care, should be reorganized (for example, using parallel numbering) to clarify how the subsequent questions in this section follow and relate to this outline of requirements. The bullet point describing the “aggregate annual information” to be featured on the state website is particularly confusing and, if retained, should be revised to mirror the language in 2.2.2, including the references to “*substantiated* child abuse” and “child care settings.”

2.3.8. This item should be separated into two distinct items, one of which should require information on the state’s policy regarding social emotional development and the other on its policy regarding expulsions. In addition, states should be required to describe their expulsion policies for “preschool-aged children” (rather than “Pre-K expulsion”) so that the terminology is consistent with the legislative language.

2.3.11. The checklist of potential strategies for providing outreach and services to eligible families with limited English proficiency should include an additional option: Partnerships with community-based organizations.

Stable Child Care Financial Assistance to Families

3.1.3. When states are asked to report if a minimum number of work hours is required, the preprint should clarify that federal law does not require states to set a minimum number of work hours.

3.1.4. States should be asked to indicate if they plan to update their income eligibility limits—for example, by adjusting them for an updated state median income or federal poverty level—during the time period of the plan. If a state does plan to update its income limit, it should be asked to describe how the update will be made and when it will take effect.

3.1.5. This item should clarify the Lead Agency’s responsibility to verify core eligibility criteria specified under the law—age of child; income; household composition; work, training, or educational program or protective status—and note that any additional information is at the option of the state. In addition, the list should be referred to as “information that the Lead Agency documents” rather than “strategies that will be implemented.” The description could also clarify that there are no federal requirements for specific documentation or verification procedures.

3.1.6. The list of strategies that Lead Agencies could use to assure the timeliness of eligibility determinations should include: Implement improved business practices in the eligibility determination process.

3.2.2. The preprint should indicate that, in addition to the populations for whom it is required, states have to the option to offer expedited enrollment to other populations of children and families. There should be an additional option c): Describe the procedures to expedite enrollment for any other groups of children.

3.3.1. With regard to 12-month eligibility, the preprint should clarify that states may continue eligibility for families through temporary job losses, which is distinct from being temporarily absent from employment. We suggest the following modifications to this section (as per the italicized text):

The CCDBG Act of 2014 establishes a *minimum* 12-month eligibility period for CCDF families. States are required to demonstrate in the Plan that no later than September 30, 2016 each child who receives assistance will be considered to meet all eligibility requirements for such assistance and will receive such assistance, for not less than 12 months before the State redetermines the eligibility of the child, regardless of changes in income (as long as income does not exceed the federal threshold of 85% of State median income) or temporary changes in participation in work, training, or education activities. (658E(c)(2)(N)(i) & (ii))

Note that this change means a State may continue to consider children eligible for assistance even if a parent’s work status changes and parents experience a longer term change in work status. Given the dual purposes of the CCDF program, the value of continuity within a high-quality child care setting for a child’s development is sufficient justification for continuing assistance

Note that this change means a State may not terminate CCDF assistance during the 12 month period if a family has an increase in income that exceeds the State’s income eligibility threshold, but not the federal threshold of 85% SMI.

In addition, this change means the State may not terminate assistance prior to the end of the 12 month period if a family experiences a temporary job loss or temporary change in participation in a training or education activity—for example, if a working parent experiences gaps in employment between jobs; is temporarily absent from employment due to illness, vacation, labor dispute, temporary layoff, extended medical leave or disability, changes in seasonal employment, or the nature of temporary or contract employment; or if a parent enrolled in a training or educational program is temporarily not attending class between semesters.

3.3.2. The preprint should clearly indicate that states are discouraged from having interim reporting requirements and that families are only required to report changes prior to the end of

the 12-month eligibility period if their income rises above 85 percent of state median income. We suggest the following revisions (as per italicized text):

3.3.2 States are encouraged to minimize reporting requirements *and discouraged from requiring parents to report changes during the 12-month eligibility period outside of those changes that would make parents ineligible for child care (for example, incomes above 85 percent of SMI)*. Given the dual purposes of the CCDF program, even if a parent's work status changes, the value of continuity within a quality child care setting for a child's development is sufficient justification for continuing assistance.

3.3.3. States should be asked whether they are *choosing* to exercise the option of terminating assistance prior to 12 months due to a parent's loss of work or cessation of training or education activity, not just whether they have implemented the provision. We suggest the following revision to this section:

3.3.3. Termination of Assistance.

The CCDBG Act of 2014 provides States the option to terminate assistance prior to redetermination if a parent loses employment or if he or she stops attending a job training or education program (i.e., if the parent experiences a non-temporary change in their status as working, or participating in a training or education program). However, the State must provide a period of continued child care assistance of at least 3 months to allow parents to engage in job search, resume work, or to attend an education or training program as soon as possible. (658E(c)(2)(N)(iii))

Note that unless the State chooses to exercise this option – allows a minimum 3-month job search period – the State may not terminate assistance based on a parent's loss of work or cessation of attendance at a job training or educational program prior to the end of the 12 month re-determination period.

Does the State terminate assistance prior to 12 months due to a parent's loss of work or cessation of attendance at a job training or education program?

- *No*
- *Yes*
- *Yes, in certain circumstances. Describe (_____)*

If Yes, please indicate the following:

- *Yes. Fully implemented and meeting all Federal requirements outlined above. List the Lead Agency's policy citation(s) and provide the period of time allowed:*
- *Not implemented. Provide your implementation plan in 3.3.7.*

3.3.4. We suggest adding the following italicized text to offer additional suggestions for taking into account fluctuations in earnings:

Note – this change requires that States have policies to account for the fact that some parents with seasonal or other types of work schedules may have irregular earnings over the course of a year. States should have procedures for taking such circumstances into account when determining income eligibility for the CCDF program. For example, averaging family income over a period of time to broaden the scope of income verification to be more reflective of annual income rather than tied to a limited time

frame that may have seasonal irregularities; *accepting income verification that represents a family's regular earnings, rather than most recent earnings; and disregarding irregular increases in earnings due to isolated increases in pay (e.g., short-term overtime pay or lump-sum payments such as tax credits).*

***New Section*:** We suggest adding a new question that asks states about how eligibility policies may differ for TANF families.

Are there policies, strategies or processes provided in Section 3.3 that differ for families receiving TANF? If yes, please describe how you will ensure that new state requirements (such as 12-month eligibility and graduated phase out) apply to TANF families served with CCDF funds.

3.3.5. We suggest rewriting the following sentence so that it is clear that aligning eligibility with other programs is an example of a practice that will minimize disruptions to parents' work rather than an example of an onerous practice. We also suggest an addition to indicate that states can align eligibility with work support programs as well as early care and education programs. Finally, we recommend offering additional examples of policies and procedures that states can adopt to avoid unduly disrupting parents' employment for eligibility redetermination (changes italicized):

For example, aligning eligibility with other early care and education programs or work support programs; only requiring the family to verify information that has changed at redetermination; using information available from other public benefit programs; pre-populating forms electronically; and/or implementing other re-determination strategies to verify income and employment electronically as opposed to more onerous practices such as asking parents and families to come to the subsidy office for an in-person visit, which can be a time-consuming and difficult task for working parents.

3.3.6. In discussing the graduated phase-out of assistance, the preprint should clarify that this graduated phase-out is distinct from the 12-month eligibility period. An eligibility period of less than 12 months is only allowable for those parents whose income is above the state's income eligibility limit at the point of redetermination and is receiving a tapered transition out of the child care assistance program. We suggest the following modification in italics:

The CCDBG Act of 2014 added a provision that requires States to provide for a graduated phase-out of assistance for families whose income has increased at the time of re-determination, but remains below the federal threshold of 85% of State median income. This could be achieved through policies such as establishing a second income eligibility threshold at re-determination (e.g., establishing an entry and exit level income eligibility threshold) or through similar policies such as granting a period of continued assistance to the family before termination. Providing a graduated phase-out promotes continuity by allowing for wage growth, a tapered transition out of the child care subsidy program, and supports long-term self-sufficiency for families.

If the State has two-tier income eligibility, children who remain eligible at redetermination and whose parents' income is higher than the entrance income eligibility level but below the exit income level should be redetermined eligible for a subsequent eligibility period (a minimum of 12 months). Provided such a child meets all eligibility requirements at redetermination, the child will continue to be eligible for each successive 12-month eligibility period.

If the State does not have two-tier income eligibility, children who meet all other eligibility criteria at redetermination but whose parents' income is higher than the state income eligibility level should be granted a period of continued assistance to phase out care. Note this is the only circumstance in which an eligibility determination may result in an eligibility period of fewer than 12 months. We recommend states consider granting a graduated phase-out period of at least three months in these circumstances.

States must describe in the Plan policies and procedures in place to allow for continued assistance at the beginning of a new eligibility period for children of parents who are working or attending a training or educational program and whose family income exceeds the State's income limit to initially qualify for assistance, if family income does not exceed 85 percent of the State median income for a family of the same size. (658E (c)(2)(N)(iv))

- Yes. Fully implemented and meeting all Federal requirements outlined above. List the Lead Agency's policy citation(s) and describe the policies and procedures for graduated phase-out: _____
- Not implemented. Provide your implementation plan in 3.3.7.

3.4. In discussing the requirement that co-payments should be set such that they are not a barrier to families receiving child care assistance, the preprint should note that, according to Census data, the average amount paid nationwide among parents who pay for child care is 7 percent of family income.

3.4.5. In the list of strategies for ensuring affordable co-payments, 10 percent of family income should not be specified as the recommended federal benchmark, since this recommendation could be revised in regulations or guidance for the new reauthorization law. Instead of including a particular percentage as a benchmark, states should instead be asked to check the box if they limit the co-payment to a certain percentage of family income, and, if they do, indicate what that percentage is.

The strategy of minimizing the abrupt termination of assistance before a family can afford the full cost of care ("the cliff effect") should be removed from this list, because it could be interpreted as encouraging a sliding scale that sets very high co-payments at the top of the income scale. While this approach would lessen the cliff effect, it would result in families having burdensome co-payments when their finances are still precarious.

Equal Access to High-Quality Child Care for Low-Income Children

4. This discussion of equal access and methods of setting rates should include cites to the specific sections of the law referencing these issues. In addition, we suggest revising the first sentence to read, "The 2014 reauthorization of the CCDBG Act is designed to help States advance improvements to the quality of child care in order to promote the healthy development of participating children."

4.1.3. States should be asked to indicate whether they pay higher rates for child care services provided through grants and contracts and, if so, they should be asked to describe how those higher rates are set and under what circumstances these higher rates are provided (such as meeting higher quality standards or addressing a shortage of a particular type of care).

4.1.3.b. “Programs designed to appropriately and effectively serve children with diverse linguistic or cultural backgrounds” should be added to the list of types of care for which grants and contracts can be used to increase supply.

4.2. In noting that states are required to make the results of the market rate survey or alternative methodology widely available, the preprint should indicate that the results should be made available in an easily interpretable and understandable form (as opposed to, for example, simply posting the raw data from a market rate survey).

4.5. Instead of listing examples of generally accepted payment practices in 4.5, and then providing a (slightly different) list of examples of such practices in 4.5.1, the list of examples should only be provided in 4.5.1. Each example should be listed on a separate line with a checkbox for states to indicate whether they employ that practice. We also suggest several additional payment practices, so the section would read as follows:

4.5.1 Describe how the payment practices to child care providers who serve CCDF-assisted children reflect generally accepted payment practices of other child care providers in the State to ensure stability of funding to encourage more child care providers to serve children who receive CCDF assistance:

- State pays based on enrollment, rather than attendance.
- State pays for absence days. (Describe how many consecutive days and/or total days in a given time period are allowed. _____)
- State increases payment rates regularly. (Describe _____)
- State pays in full-time or part-time increments, rather than by the hour.
- State gives providers prompt notice of changes in family’s eligibility status.
- State pays providers prospectively rather than only on a reimbursement basis.
- State uses automated billing and payment mechanisms to ensure timely payment.
- State pays providers for customary fees such as registration charged to private-paying families. _____
- Other. (Describe _____)

Standards and Monitoring Processes to Ensure Health and Safety

5.1.3. States should be asked to fill in the standard set of questions regarding their plans for implementation used in other parts of the preprint if they do not yet have ratio or group size requirements.

5.1.8. Instead of being asked to indicate whether they do or do not exempt relatives from health and safety training requirements, states should be asked whether they exempt relatives from none, some, or all of the health and safety training requirements.

5.2.2.c. The preprint should include language from the reauthorization law indicating that the annual inspections of license-exempt providers should take place at a time designated by the state. OCC may also want to clarify that unannounced inspections are not required.

5.3.5. Each of the activities addressed in this item—submitting requests for background checks, conducting background checks in a timely manner, protecting the privacy of child care staff members, and appealing the results of background checks—should be addressed separately, and states should be asked to describe how they are implementing each activity.

Continuous Quality Improvement

7.1.1. The preprint should clarify that this item only refers to the quality improvement set-aside and indicate that information on the state's activities supported with the infant/toddler set-aside is requested in a later item (7.3.1.).

7.6.1. There should be a brief reminder in this item about appropriate approaches to and uses of child assessment, with a reference back to the more detailed caveats included in 6.3.4.

7.7.2. States should be asked to indicate what, if any, supports they offer for accreditation.

Grantee Accountability

8.1.1. The preprint should include language from previous guidance reminding states of the importance of program integrity and the efficacy of strategies such as caseworker training and automated data matches to reduce errors, rather than frequent reporting requirements for parents or other burdensome policies.

Thank you again for the opportunity to comment. Please let us know if we can clarify any of the above comments.

Sincerely,

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