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Implementing the Child Care and Development Block Grant Reauthorization: A Guide for States

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THE CENTER FOR LAW AND SOCIAL POLICY (CLASP)

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Introduction

In November 2014, Congress reauthorized the Child Care and Development Block Grant (CCDBG),¹ the major federal child care program, for the first time since 1996. It offered states a framework to improve their child care assistance programs to help families access safe, reliable, affordable child care, better enabling parents to go to work or school and furthering children's healthy growth and development. The law's goals of raising health and safety standards for all children receiving CCDBG-funded child care and increasing the quality of care are essential for the well-being of children, especially the most vulnerable children.

The importance of child care assistance for low-income parents and their children is clear. CCDBG helps parents afford reliable child care, which can help them gain and maintain stable employment. It also helps them access higher-quality care than they could otherwise afford.² Research demonstrates the importance of high-quality child care to children's development and success in school and in life.³

It was certain when the law passed that states would need significant new resources to seize the opportunities offered by the law to improve child care to benefit children, parents, and providers. However, the law itself did not guarantee any new resources and Congress has not followed through with sufficient funds to support its implementation. CCDBG received minimal increases in funding in the years following the reauthorization; even so, federal funding for CCDBG has actually declined by about 10 percent since 2002 in constant dollars.⁴ States are attempting to do more with less—an unsustainable struggle that is directly affecting low-income children, families, and providers.

The CCDBG reauthorization stands at a critical juncture. Some states are moving forward with legislative proposals and the promulgating of rules or with particular pieces of the reauthorization. Many states, however, are limited in their capacity to move forward without the requisite resources. While all agree on the worthy goals of the CCDBG reauthorization, its ultimate success will depend on federal and state lawmakers' commitment to investing in this vital work support and child care program.

CURRENT STATUS OF IMPLEMENTATION

At the time of this guide's publication, implementation of the reauthorization was a mixed picture across the states. State CCDBG plans, including implementation plans, were approved and effective June 1, 2016 covering a three-year period. States were asked to create implementation plans based on their best interpretation of the law. Many states are putting key provisions into effect and moving implementing legislation through their legislatures.⁵ In some cases, states took the opportunity to make improvements to policies—including those not specifically required by the reauthorization, but consistent with its larger goals—to better serve children and families. For example, Louisiana revised its rules to reduce the total number of activity hours of work, education, and/or job training required for eligibility for assistance from 30 hours to 20 hours, thereby reducing barriers to parents' access to subsidies. Florida approved the use of direct contracts for slots for children in areas of concentrated poverty.⁶

But momentum has stalled. Thirty-five states submitted waivers for at least one provision of the law.⁷ The reasons for requesting waivers varied. For example, some states needed more time to pass legislation or go through rulemaking processes. Others preferred to wait for the federal regulations to be finalized, which did not occur until September 2016, after state plans were approved. Still others submitted waivers due to a lack of resources available to implement the law.

Waivers were approved in all areas for up to one year with an opportunity to request an extension, with the exception of basic health and training requirements which were to be met by October 2016.⁸ The most common waivers were for provisions related to graduated phase-out, 12-month eligibility, health and safety topics, and license-exempt care inspections.⁹

Some states, rather than making progress, have actually moved backward in addressing the child care needs of children and families. For example, some states—including Connecticut, Georgia, and Texas—closed enrollment to new applicants or limited enrollment to priority groups.¹⁰ Others—including North Dakota and West Virginia—reduced or plan to reduce income eligibility for assistance.¹¹ Some states, in an effort to control implementation costs, have taken steps to restrict the types of providers that can receive CCDBG dollars, effectively limiting the choices of care and potentially making it impossible for some parents in low-wage jobs—who often need child care options that are flexible enough to match variable or nonstandard work schedules—to use child care subsidies.

STATE COSTS AND IMPACT

While states are positioned differently with respect to the extent of policy changes needed to comply with the law, all states face some new costs, and in many states these costs are substantial. On-site inspections for an expanded pool of providers, health and safety trainings, and background checks

for providers all have hard costs. Many states have also cited large costs associated with implementation of 12-month eligibility without reducing the overall number of children served or placing more children on waiting lists. Meeting other objectives of the law, such as building the supply of high-quality care, paying higher rates for higher-quality care, and expanding the number of low-income children in high-quality care, also necessitates higher subsidy costs per child.

While all agree on the worthy goals of the CCDBG reauthorization, its ultimate success will depend on federal and state lawmakers' commitment to investing in this vital work support and child care program.

Already, the number of children receiving assistance has declined significantly. The U.S. Department of Health and Human Services (HHS) estimated that only 15 percent of children eligible under federal eligibility rules actually received assistance in 2012.¹² In 2015, CCDBG served the smallest number of children in its history, with an estimated 373,100 fewer children receiving child care assistance than in 2006.¹³ The number of child care providers receiving CCDBG funds has fallen as well, declining by over half (nearly 52 percent) during that time period.¹⁴

The absence of new resources to implement the law raises the possibility that states could make tradeoffs that will undermine the very goals of the reauthorization. The challenges of balancing policy reforms with unmet need are immense for states. The value of enabling families to have more continuity of care and stability, allowing children to access higher-quality care, and prioritizing vulnerable populations, such as children experiencing homelessness and children with special needs, simply cannot be overstated. Continuing to operate child care subsidy programs

in ways that disrupt both parental employment and children's continuity of care is counter-productive to meeting CCDBG's goals. And yet, moving a reform forward without adequate funding leaves states with no choice but to trade off among essential priorities: basic health and safety assurances; quality improvements; economic stability for families; and resources for providers.

We are especially concerned about providers and how we ensure that high-quality providers continue to care for low-income children in CCDBG. Providers are central to child care quality. Research demonstrates that high-quality interactions between teachers and children are critical to children's well-being—and the providers' understanding of child development and effective teaching strategies necessary to produce those interactions requires both professional development and ongoing support.¹⁵ If states shortchange investments in educating the child care workforce, providers will lack the knowledge and skills they need to offer a high-quality learning experience for children in their care. Moreover, state payment rates are currently so low that they fail to provide sufficient resources for providers to meet standards in the law. Underpaying child care providers leads to poor job quality, including poverty wages for the early childhood workforce.

Finally, further shrinking the reach of CCDBG is counter-productive for our country. Helping parents work and promoting children's well-being are interrelated. When parents are able to work and earn a steady income, they can offer their children more stability, opportunities, and resources. Families can live in better neighborhoods with better schools, provide nutritious meals, and buy books and toys that allow their children to learn and explore. And when parents have peace of mind that their children are in child care that offers a safe, nurturing environment, they are more likely to be productive at work, and thus more likely to stay employed and possibly even advance to a position with higher pay.¹⁶ With less help, fewer parents will

be able to work and provide for their families while knowing their children are safe and well cared for.

MOVING FORWARD

We remain hopeful that Congress and states will allocate the new resources necessary towards the important and broadly supported goals of the reauthorization. States can also examine how they can use data, technology, staff training, and other approaches and tools to improve the way they administer their child care assistance programs. In a number of states, administrators and policymakers have made significant strides making access to child care assistance more family-friendly, more efficient, and more accountable.¹⁷

ABOUT THIS GUIDE

This guide is an update of the implementation guide published by CLASP and NWLC in April 2015 and includes an outline and discussion of provisions in the final rule implementing CCDBG issued by the Administration for Children and Families in September 2016. We are pleased that many of the suggestions we, together with other national and state child care advocates, made in our original implementation guide to maximize key provisions in the law were included in the final rule, in particular those that would strengthen the provisions of child care financial assistance for families to support economic stability and child well-being.

This guidebook summarizes and analyzes key sections of the law, offers recommendations—and cautions—for states as they consider how to implement those sections, and suggests related resources that may be useful for background information or model policies.

We hope the updated guide is useful in better understanding the implementation of new provisions and making the case for the necessary legislative and administrative policy changes at the state level and for the necessary funding increases at the federal and state level.

- 1 CCDBG is also commonly referred to as the Child Care and Development Fund (CCDF) and the two terms may be used interchangeably. See also Office of Child Care reauthorization resources at https://www.acf.hhs.gov/occ/ccdf-reauthorization#anch_60.
- 2 Christine Johnson-Staub and Hannah Matthews, *CCDBG: A Critical Support for Working Families*, CLASP, 2017, <http://www.clasp.org/resources-and-publications/publication-1/CCDBG-A-Critical-Support.pdf>.
- 3 See, for example, National Institute of Child Health and Human Development, *Preschoolers Who Experienced Higher Quality Care Have Better Intellectual and Language Skills*, 2001; Ellen S. Peisner-Feinberg, Richard M. Clifford, Mary L. Culkin, et al., *The Children of the Cost, Quality, and Outcomes Study Go To School*, University of North Carolina at Chapel Hill, Frank Porter Graham Child Development Center, 1999, http://fpg.unc.edu/sites/fpg.unc.edu/files/resources/reports-and-policy-briefs/NCEDL_CQO_technical_report.pdf.
- 4 Hannah Matthews and Christina Walker, *Child Care Assistance Spending and Participation in 2014*, CLASP, 2016, <http://www.clasp.org/resources-and-publications/publication-1/CC-Spending-and-Participation-2014-1.pdf>.
- 5 NWLC, *State Early Care and Education Updates 2016: Some Steps Forward But More Progress Needed*, 2017, <https://nwlc.org/wp-content/uploads/2017/01/State-Early-Care-and-Education-Updates-2016-FINAL.pdf>.
- 6 Florida Children's Council, "End of Session Report: Session Adjourns—Major Children's Legislation Approved; Governor Signs Budget," Capitol Connection, March 18, 2016, http://www.floridaearlylearning.com/sites/www/Uploads/files/Statewide%20Initiatives/ADA_2016-17%20ELPF%20Project%20Fact%20Sheet_PDF.pdf; Ounce of Prevention Fund, *State Policy Update: August 2016*, 14-16; Florida Office of Early Learning, "Early Learning Performance Funding Project: 2016-17 Overview," April 11, 2016, http://www.floridaearlylearning.com/sites/www/Uploads/files/Statewide%20Initiatives/ADA_2016-17%20ELPF%20Project%20Fact%20Sheet_PDF.pdf.
- 7 National Women's Law Center, *Child Care and Development Fund Plans FY 2016-2018: State Waivers and Corrective Actions*, 2016, <http://nwlc.org/resources/child-care-and-development-fund-plans-fy-2016-2018-state-waivers-and-corrective-actions>.
- 8 States that were not in compliance with health and safety training requirements were put in corrective action with the expectation of compliance within one year.
- 9 These waivers were requested and approved in 2016. Requests for waivers for compliance with background check requirements were not yet considered.
- 10 Email from Charmaine Thomas, Public Assistance Consultant, Connecticut Office of Early Childhood, to Karen Schulman, National Women's Law Center, August 11, 2016; Connecticut Office of Early Childhood, *Care 4 Kids: Notice of Program Change*, November 29, 2016, <http://www.ctcare4kids.com/files/2016/11/C4K-letter-PG2-3-closing-new-applications-Dec-31-2016-2.pdf>; Samantha Shoenfeld, "State Further Reduces Eligibility for Child Care Subsidy; Protesters Fight Back," Fox 61, November 29, 2016, <http://fox61.com/2016/11/29/statefurther-reduces-eligibility-for-child-care-subsidy-protesters-fight-back/>; Workforce Solutions Capital Area notice, August 24, 2016, <http://www.wfscapitalarea.com/Portals/O/all-content/ChildcareServices/CCS%20Freeze%20Notice.pdf>; NWLC, *State Early Care and Education Updates 2016*.
- 11 NWLC, *State Early Care and Education Updates 2016*; email from Ted Boettner, Executive Director, West Virginia Center on Budget and Policy, to Hannah Matthews, Center for Law and Social Policy, December 2016.
- 12 Nina Chien, *Estimates of Child Care Eligibility and Receipt for Fiscal Year 2012*, Office of the Assistant Secretary for Planning and Evaluation, 2015, <https://aspe.hhs.gov/system/files/pdf/153591/ChildEligibility.pdf>.
- 13 Christina Walker and Hannah Matthews, *CCDBG Participation Drops to Historic Low*, CLASP, 2017, <http://www.clasp.org/resources-and-publications/publication-1/CCDBG-Participation-2015.pdf>.
- 14 Anitha Mohan, *Fewer Children, Fewer Providers*, CLASP, 2017, <http://www.clasp.org/resources-and-publications/publication-1/CCDBG-Provider-Factsheet-2006-2015.pdf>.
- 15 Allen LaRue and Bridget B. Kelly (eds.), *Transforming the Workforce for Children Birth Through Age 8: A Unifying Foundation*, Institute of Medicine, National Research Council, 2015, <https://www.nap.edu/download/19401>.
- 16 Robert H. Bradley and Robert F. Corwyn, "Socioeconomic Status and Child Development," *Annual Review of Psychology* 53 (2002); Greg J. Duncan, Pamela A. Morris, and Chris Rodrigues, "Does Money Really Matter? Estimating Impacts of Family Income on Young Children's Achievement with Data from Random-Assignment Experiments," *Developmental Psychology* 47 (2011).
- 17 Ed. Olivia Golden, *New Perspectives on Transforming States' Health and Human Services: Practical Commentaries on the First Year of the Work Support Strategies Initiative*, Urban Institute, 2013, <http://www.urban.org/research/publication/new-perspectives-transforming-states-health-and-human-services>.

Purposes and Select General Administration Provisions

The CCDBG Act of 2014 broadens the general purposes of the program, placing greater emphasis on the quality and continuity of care and fostering children's development. The law's overarching provisions on administration retain state flexibility while establishing some new parameters on the uses of CCDBG funds.

Key Provisions in the Law and Regulations CCDBG Purposes

The reauthorization and corresponding regulations amended and expanded upon the purposes of the CCDBG program, which are to:

1. Allow each state maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within that state.
2. Promote parental choice to empower working parents to make their own decisions regarding the child care services that best suit their family's needs.
3. Encourage states to provide consumer education information to help parents make informed choices about child care services and to promote involvement by parents and family members in the development of their children in child care settings.
4. Assist states in delivering high-quality, coordinated early childhood care and education services to maximize parents' options and support parents trying to achieve independence from public assistance.
5. Assist states in improving the overall quality of child care services and programs by implementing the health, safety, licensing,

training, and oversight standards established in CCDBG and in state law (including state regulations).

6. Improve the child care and development of participating children.
7. Increase the number and percentage of low-income children in high-quality child care settings.

Lead Agency Responsibilities

- A state Lead Agency may be a state agency or a joint interagency office as designated or established by the governor of the state.¹ Lead agencies serve as the single point of contact for all child care issues; determine the basic use of CCDBG funds and priorities for spending CCDBG funds; and promulgate the rules governing overall administration and oversight.
- Lead Agency duties also include administering the CCDBG program, developing the state plan with opportunity for public comment, and coordinating the provision of services with other federal, state, and local child care and early childhood development programs.
- The state plan period is now three years (changed from two years). States have the option, as before, of submitting amendments to state plans during this time period to reflect updated policies.
- To the extent practicable, CCDBG services must be efficiently coordinated with programs operated at the federal, state, and local levels for children in preschool programs, tribal early childhood programs, and other early childhood

programs in order to expand accessibility and continuity of care and assist children to receive full-day services. If the state elects to combine funding for CCDBG with that of other early childhood programs, it must describe the funding streams in its state plan and explain how it will use the combined resources.

Eligibility for Child Care Assistance

- Eligible children are defined as those under 13 years of age (or between ages 13 and 19 and physically and/or mentally incapable of self-care or under court supervision); in families whose income does not exceed 85 percent of the state median income (SMI) for a family of the same size based on the most recent SMI data that are published by the U.S. Census Bureau; and residing with a parent or parents who are working or attending a job training or educational program or receiving, or needing to receive, protective services.²

Use of CCDBG Funds

- The reauthorization maintains the existing allowable uses of funds, including the priority given to children of families with very low incomes and children with special needs, and adds children experiencing homelessness as a priority group. States must also prioritize investments for children of families in areas with significant concentrations of poverty and unemployment and without high-quality child care.
- Specifically, states may use CCDBG funds for:
 - Child care services on a sliding fee scale basis
 - Activities that improve the quality or availability of such services
 - Activities that improve access to child care services, including for homeless children and the establishment/support of a system of local/regional child care resource and referral (CCR&R) organizations (coordinated by a statewide lead CCR&R). Under this provision, the CCR&R agency must be designed to provide parents with complete consumer education

information about all available child care options; work directly with families receiving CCDBG assistance to help them enroll their children in appropriate, high-quality child care settings; collect data and provide information on coordination of services and supports and the supply of and demand for child care; establish partnerships with public agencies and private entities; and coordinate activities among the Lead Agency and local agencies that administer CCDBG funds.

- The reauthorization maintains a 5 percent limit on administrative expenditures.
- States must reserve the required quality set-aside funds, increasing from 4 percent to 9 percent of CCDBG funds in FY 2020 (in addition to 3 percent for improving the supply and quality of infant-toddler care beginning in FY 2017), and from the remainder must spend a minimum of 70 percent of discretionary funds on direct services (i.e., access to child care) and 70 percent of mandatory funds on families using Temporary Assistance for Needy Families (TANF), families transitioning off of TANF, and families at risk of receiving TANF.

Waiver Authority

- The Secretary of the U.S. Department of Health and Human Services (HHS) is permitted to waive provisions or penalties in the statute for up to three years (with the option of a one-year extension) based on a request from a state identifying duplicative requirements preventing the effective delivery of child care services; extraordinary circumstances, such as a natural disaster or financial crisis; or an extended period of time for a state legislature to enact legislation to implement the statute. Waivers are probationary and are subject to termination by the Secretary at any time.
- In order to be considered, the waiver application must do the following:
 - Describe the circumstances that prevent the state from complying with the statutory or regulatory requirements.

- Demonstrate that the waiver enhances the state's ability to carry out the purposes of the statute.
 - Show that the waiver will not contribute to inconsistency with the Act.
 - Request one of the allowable types of waivers.
- The final rule clarified two types of waivers that can be requested:
 1. Transitional and legislative waivers: Waivers that are designed to offer temporary relief from conflicting or duplicative requirements or that allow lead agencies one full legislative session to enact legislation necessary to implement the provisions of the reauthorization law or rule. These waivers are limited to a one-year initial period, and may be renewed for an additional one-year period, should the state have a two-year legislative cycle or need additional time.
 2. Waivers for extraordinary circumstances: Waivers that address temporary circumstances or situations, such as a natural disaster or financial crisis. These waivers are limited to an initial period of no more than two years from the date of approval, and at most, an additional one-year renewal from the date of approval of the extension.

Federal Reports on State Waiting Lists and State Noncompliance

- Beginning November 2016, and every two years thereafter, the U.S. Comptroller General must produce a report on waiting lists for child care assistance that includes the number of families in each state that are eligible for CCDBG assistance, have applied for assistance (identified by the type of assistance requested), and have been placed on a waiting list for the assistance.
- Beginning September 30, 2016 and each September 30 thereafter, the HHS Administration for Children and Families (ACF) must determine whether each state uses CCDBG funds for child care services or activities that improve quality, availability, or access to such services, with priority given to services for children with very low family incomes or special needs, or that are

experiencing homelessness. The final rule adds a new provision requiring ACF to annually prepare a report that contains this information, highlighting whether lead agencies used funds in accordance with the priority for services provisions.

- A state found to be noncompliant with these priority for services requirements will have six months to appropriately modify its state plan, after which 5 percent of the state's CCDBG funds may be withheld.
- This penalty may be waived for one year if the noncompliance is determined to be the result of extraordinary circumstances.

Implementation Considerations

CCDBG Purposes

While maintaining state flexibility and parental choice, the revised goals of CCDBG emphasize parental involvement, the coordination of high-quality early care and education services, improvements to the overall quality of child care, and improved access to high-quality care for low-income children. Achieving these goals requires a critical assessment of state child care assistance policies, policies that better support access to high-quality care for children of parents who are working or enrolled in school or training programs, and efforts to promote continuity so that children can stay in high-quality settings for longer periods. In achieving all aspects of this vision, states will need to address the challenges posed by the costs of improving and maintaining quality, continuity, and access.

Lead Agency Responsibilities

States have flexibility to select a Lead Agency and states vary in whether the Lead Agency is an education agency, human services agency, or an independent early childhood agency. Coordination across state agencies and high-level leadership can produce stronger, more comprehensive early care and education. However, even when state-level offices of early education or early learning have been created, the administration of the subsidy

system often remains separate from quality improvement initiatives and other early childhood programs. The reauthorization of CCDBG offers an opportunity to think about how subsidies promote access to high-quality child care and to ensure that child care subsidies, regardless of which agency is the Lead Agency, are fully integrated into statewide early learning efforts and/or broader goals of any early childhood offices.

In states with locally administered systems, lead agencies will need to consider new approaches to ensure that the provisions of the updated CCDBG law are fully implemented. For example, changes in eligibility policies will require intensive training of eligibility staff, implementation monitoring, and support at the local level to ensure the new policies are fully carried out in compliance with the law. This will be particularly important in states where counties or other local entities have a major role in administering subsidies, or that subcontract to CCR&R agencies or other regional entities for subsidy administration.

State Plan. The CCDBG state plan period was extended from two to three years. States' FY 2016-2018 state plans became effective June 1, 2016. States were asked to complete state plans based on their "reasonable interpretation of the Act," pending completion of a final regulation, which was not published until September 2016. States were able to outline implementation plans in areas where they were not yet in compliance with new requirements. Compliance with the final regulations will be determined through the next plan cycle

(FY 2019-2021). States may submit amendments to their current plan in the interim.

Coordination. The reauthorization promotes coordination activities at the state level that can strengthen the role of child care subsidies in expanding access to high-quality child care and early education programs. Key subsidy policies addressed in the reauthorization—for example,

12-month eligibility periods—make it easier to align CCDBG with Head Start, including Early Head Start-Child Care Partnerships. States can also use that flexibility to extend access to care for children participating in state prekindergarten programs, offering longer days and full-year opportunities by providing child care assistance to cover the additional hours when parents are at work. While coordination cannot sufficiently address gaps in access to early childhood programs, it can allow for existing programs to better meet the needs of families served.

Eligibility for Child Care Assistance

The reauthorization did not make changes to the eligibility of children for child care assistance. Eligibility criteria in states beyond the criteria identified above have been developed at the states' discretion and are therefore under state control to revise or eliminate. The federal law also does not specify how states should define, collect, or verify any eligibility elements, which gives states wide latitude to design their subsidy programs.³

Ages of Children. Nationally, 27 percent of children receiving CCDBG-funded child care are under three years old; 27 percent are ages three and four; 10 percent are age five; and 35 percent are ages six and older.⁴ As states consider implementation of new policies, including enhanced alignment with other early learning programs, states should maintain their support for school-age children in CCDBG. Many of these families have few other options for safe, affordable after-school care, and for families with multiple children, different rules around access to care for different ages of children can be burdensome. School-age programs and providers not only offer enrichment opportunities for low-income children that can improve their chance of succeeding in school but also ensure their safety and well-being and decrease the potential of risky behavior.⁵

Use of CCDBG Funds

Direct Services. Direct services refer to the provision of child care assistance to eligible families. The reauthorization law's requirement that at least 70 percent of funds be used for direct services reinforces the importance of ensuring that CCDBG funds support access to child care for low-income working families. The regulations specify that 70 percent of the mandatory and matching funds allocated to states must be used for direct services to families who are receiving assistance through TANF, transitioning off TANF, or at risk of becoming dependent on TANF (who may be eligible based on work, training, or education). After accounting for the required quality and administrative expenditures from the discretionary federal funds, 70 percent of funds must go to providing direct services. Any funds remaining must go to provide direct services to low-income families who are working or attending training or education.

Administrative Costs. The reauthorization maintains the existing 5 percent limit on administrative costs within CCDBG. While the law does not define administrative activities, it specifies that such costs do not include the costs of providing direct services. The final rule lists activities that are, and are not, administrative costs. As states calculate administrative costs, the regulations note that the following should be included: salaries and related costs of staff engaged in the administration and implementation of the program; travel costs incurred for official business in carrying out the program; administrative services, including accounting services; audit services; other costs for goods and services required for the administration of the program, including rental or purchase of equipment, utilities, and office supplies; and indirect costs as determined by an indirect cost agreement or cost allocation plan. The following activities should not be considered administrative: eligibility determination and redetermination; preparation and participation in judicial hearings; child care placement;

recruitment, licensing, inspection, reviews, and supervision of child care placements; payment rate setting; resource and referral services; training of child care staff; and establishment and maintenance of computerized child care information systems or a certificate program.

Priority Populations. States must give priority for child care assistance to children of families with very low incomes, children with special needs, and children experiencing homelessness, as defined by states. States have to describe how they will give priority to children from families in areas that have significant concentrations of poverty and unemployment, also defined by states. States may choose to give priority to additional categories of children.

In addition, states must describe in their state plans how they will implement strategies to increase the supply and improve the quality of child care for children in underserved areas, including rural areas; infants and toddlers; children with disabilities; and children who receive care during non-traditional hours.

Waiver Authority

The legislation lays out the criteria under which a state may seek a waiver of one or more requirements in the law. The waiver authority is provided to deal with extraordinary circumstances or an extended period of time needed for state legislative action to implement CCDBG provisions. The circumstances must prevent the state from complying with any statutory or regulatory requirement of CCDBG and the waiver must, by itself, improve the state's ability to carry out CCDBG purposes.

Granted waivers must be consistent with CCDBG objectives and must not compromise the health, safety, and well-being of children served by CCDBG. HHS has 90 days to approve or disapprove a waiver request. Granted waivers will be no longer than two years in cases of extraordinary circumstances, and

no longer than one year for legislative action, with an option to renew for no more than one year for each type of waiver. Thirty-five states requested at least one waiver, and 22 of them had waivers approved and are currently operating with waivers.⁶

Federal Reports on State Waiting Lists and State Noncompliance

Eligibility, Applicants, and Waiting Lists. While the responsibility for utilization and waiting list data collection is assigned to the federal level under the reauthorization law, states too can consider how their policies and data help to illustrate—or disguise—unmet need. States that limit the pool of families eligible for or applying for subsidies by setting restrictive eligibility criteria and/or doing little to advertise the availability of child care assistance may show data that obscure the actual need for assistance. States should keep centralized

waiting lists in order to have that data available for tracking at the state and national levels. Conducting outreach to potentially eligible families, doing initial screening for eligibility, and creating and maintaining an active waiting list help create a more accurate picture of the need for child care subsidies and make the case for increased resources over the long term.

State Noncompliance. The reauthorization increases accountability provisions within CCDBG, including a first-ever provision to withhold 5 percent of a state's funds for noncompliance with the statutory directive to use CCDBG funds for child care services or activities that improve quality, availability, or access to such services, with priority given to services for children with very low family incomes or special needs, as well as for noncompliance with background check provisions.

While coordination cannot sufficiently address gaps in access to early childhood programs, it can allow for existing programs to better meet the needs of families served.

- 1 Lead agencies may also be a territorial or tribal entity. This guide does not address CCDBG rules for tribes.
- 2 A qualifying work activity is defined by states and may include looking for employment.
- 3 For more on simplifying core eligibility criteria, see Gina Adams and Hannah Matthews, *Confronting the Child Care Eligibility Maze: Simplifying and Aligning Child Care with Other Work Supports*, Urban Institute and CLASP, 2013, <http://www.clasp.org/resources-and-publications/publication-1/WSS-CC-Paper.pdf>.
- 4 U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care, "FY 2015 Preliminary Data Table 9 - Average Monthly Percentages of Children In Care By Age Group (FY 2015)," 2017, <https://www.acf.hhs.gov/occ/resource/fy-2015-preliminary-data-table-9>.
- 5 Afterschool Alliance, *Afterschool Programs: Making a Difference in America's Communities by Improving Academic Achievement, Keeping Kids Safe and Helping Working Families*, http://www.afterschoolalliance.org/Afterschool_Outcomes_2013.pdf; Afterschool Alliance, *Evaluations Backgrounder: A Summary of Formal Evaluations of Afterschool programs' Impact on Academics, Behavior, Safety and Family Life*, 2015, http://afterschoolalliance.org/documents/Evaluation_Backgrounder.pdf.
- 6 NWLC, *Child Care and Development Fund Plans FY 2016-2018: State Waivers and Corrective Actions*, 2016, <https://nwlc.org/wp-content/uploads/2016/08/CCDF-State-Plans-FY-2016-2018-State-Waivers-and-Corrective-Actions-FINAL.pdf>.

Consumer and Provider Education and Provider Compliance with Health and Safety Standards

The CCDBG Act of 2014 includes important provisions to protect the health and safety of children in child care through more consistent standards and monitoring of standards. Additionally, the law seeks to increase parents' and providers' knowledge of child care quality, child development, and public resources. The law also aims to promote parental choice and consumer education in selecting child care and parental involvement in the development and care of children.

In this Chapter:

- Consumer Education
- Enforcement of Licensing and Other Regulatory Requirements
- Establishment and Enforcement of Health and Safety Requirements
- Criminal Background Checks

CONSUMER EDUCATION

Key Provisions in the Law and Regulations

Consumer Education Website

States must create a consumer education website that, as laid out in the regulations, includes the following seven components:

- Plain-language information on lead agencies' policies and procedures related to child care, including those related to licensing and licensing-exemptions, monitoring, and criminal background checks.
- A list of child care providers searchable by zip code, differentiating between licensed and

license-exempt providers, that indicates if a serious injury or death due to a substantiated health and safety violation occurred at the provider.

- Information about the quality of CCDBG providers as determined by the state through a quality rating and improvement system (QRIS) or other transparent system of quality indicators, if such information is available.
- At least three years (if available) of provider-specific monitoring results (in plain language or including a plain-language summary or interpretation) that include reports of major substantiated complaints about the failure to comply with health and safety requirements, for all licensed and CCDBG-eligible providers, excluding relative providers.
- The aggregated number of deaths, serious injuries, and instances of substantiated abuse occurring in child care annually, by provider setting and licensing status.
- Referral information to local child care resource and referral (CCR&R) agencies.
- Information about how a parent can contact the state agency, a designee, or another program that can help parents understand information on the consumer education website if needed.

The website must provide the widest possible access to individuals with limited English proficiency and persons with disabilities.

Information on Child Care Assistance, Other Benefits and Programs, and Child Development

States must make available information on the following topics:

- The availability of child care services and child care assistance, through CCDBG and other programs; this information should be provided through the consumer education website and resource and referral agencies.
- Other assistance that may be available for CCDBG-eligible families, including Head Start and Early Head Start, the Supplemental Nutrition Assistance Program (SNAP), the Low-Income Home Energy Assistance Program (LIHEAP), Temporary Assistance for Needy Families (TANF), the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Medicaid and the Children's Health Insurance Program (CHIP), Preschool Grants (Part B, Section 619) and Grants for Infants and Families (Part C) under the Individuals with Disabilities Education Act (IDEA), and the Child and Adult Care Food Program (CACFP).
- Research and best practices concerning children's development, meaningful parent and family engagement, and physical health and development (particularly healthy eating and physical activity).
- State policies regarding the social-emotional behavioral health of children (which may include positive behavioral intervention and support models).
- State policies to prevent suspension, expulsion, and denial of services to young children in child care and other childhood programs receiving CCDBG funds.
- Access to developmental screenings and referrals to services, including coordinated use of Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) through Medicaid and developmental screening under IDEA Section 619 and Part C; the information should be provided to parents as part of the CCDBG intake process and to providers through training and education.

In addition, states must establish a hotline for parental complaints of possible health and safety violations. This hotline must provide the widest possible access to people with limited English proficiency and people with disabilities.

Consumer Statement

The final rule requires states to provide parents receiving CCDBG-funded child care with a consumer statement that includes the following information:

- Provider-specific information, including health and safety requirements, licensing or regulatory requirements, or quality standards met by the provider; the provider's most recent date of inspection; and any history of violations.
- Information on the state's background check requirements and whether the provider is subject to the checks.
- Information on the state's hotline for parental complaints.
- Information on how the state promotes CCDBG's "equal access" provisions (described in detail in the section on Provider Payment Rates, Policies, and Practices).

The consumer statement may be available as a hard copy or electronically, or can be provided as a referral to the consumer education website to retrieve the provider's profile. The statement should be accessible by individuals with limited English proficiency and individuals with disabilities.

National Toll-Free Hotline and Website

The Secretary of the U.S. Department of Health and Human Services (HHS) must operate a national toll-free hotline and website for consumer education.

- The national website must be hosted by childcare.gov, must be available 24 hours a day, and must offer the widest possible access to services for families who speak languages other than English.

- The national website should provide or link to information on CCDBG-eligible child care providers and provider-specific information on quality indicators and compliance with licensing and health and safety requirements.
- The national website must include referrals to local CCR&R agencies and state information about child care subsidy programs and other financial support for families.
- The final rule requires states to link the information on state consumer education websites, including a list of licensed and license-exempt providers, information about the quality of providers, and monitoring and inspection reports, to the national website.
- The toll-free hotline must allow parents to be able to anonymously report CCDBG providers suspected of child abuse or neglect, or violations of health and safety requirements.

Implementation Considerations

Consumer Education

The reauthorization law and regulations strengthen CCDBG consumer education requirements. The rule puts an emphasis on the provision of consumer education through the consumer education website. States must ensure that consumer education is accessible to everyone, including individuals with limited English proficiency and individuals with disabilities. To achieve this goal, states should consider multiple modalities for providing child care information, including mobile optimized websites, as well as non-electronic means such as partnership with pediatricians' offices and health clinics, radio and television, and local businesses. States should work to identify effective and trusted partners for sharing information with hard-to-reach groups, including language-minority communities and immigrant communities. States may also consider collaboration with resource and referral agencies, labor organizations, schools, and others in direct contact with parents and providers.

Linking Families to Available Programs and Services

Connecting to Other Early Learning Programs. To implement the provision that states provide families applying for or receiving child care assistance with information about other early childhood programs, including Head Start or Early Head Start programs, states can consider strengthening coordination at the local level to identify programs when slots open up. Administering agencies and resource and referral agencies can also refer families with infants and toddlers to child care programs participating in Early Head Start-Child Care Partnerships when spaces are available. Families with eligible preschool-age children could be referred to state-funded prekindergarten in those states that have it. By linking families with other early learning programs, states can provide additional options and allow families to combine programs that operate on a part-day schedule—as is the case with many Head Start and prekindergarten programs—with CCDBG funds to cover the remaining hours of the day while parents work.

Connecting to Other Public Benefits and Programs.

Families receiving child care assistance may be eligible for other public benefits and not receiving them. A study using 2001 data found that only 5 percent of low-income working families obtained a full work support package of Medicaid/CHIP, SNAP, and child care subsidy.¹

States should consider not only informing families about the availability of these programs during the eligibility and intake process for child care assistance but also streamlining parents' access to benefits and services. For example, states have created online portals allowing clients to screen, apply for, and track multiple benefits, including child care assistance.

In addition to those benefit programs specified in the legislation and regulations, states should consider outreach to inform parents and providers about other programs that provide

important support for working families, including the Child Tax Credit, the Earned Income Tax Credit, the Child and Dependent Care Tax Credit, and health coverage through the Affordable Care Act.

Connecting to Developmental Screening. The rule recommends, but does not require, that states align developmental screening policies for CCDBG with those for Head Start and ensure that all children receive a developmental screening within 45 days of enrollment (as is required in Head Start). States should coordinate screening efforts with other agencies and entities, such as those administering early intervention services, Head Start, Medicaid, and IDEA Section 619 and Part C. While most states do not use CCDBG funds to conduct developmental screenings, some have used the CCDBG quality set-aside to build the capacity of providers to conduct developmental screenings.

States should work to identify effective and trusted partners for sharing information with hard-to-reach groups, including language-minority communities and immigrant communities.

Behavioral Health

Guidance from the U.S. Departments of Education and HHS recommends that state efforts in this area focus on “prevention, developing and communicating clear behavioral expectations, and ensuring fairness, equity, and continuous improvement” in early childhood settings.² For example, the guidance encourages states not only to develop and distribute state policies based on best practices, but to track and analyze data on the effect of those policies, include technical assistance and training on the policies in their professional development systems, and integrate them into quality standards. State policies can include training providers on developmentally appropriate behavior interventions and increasing access to

comprehensive services, including health and behavioral health services. States should also use data to inform their practices, paying particular attention to providing intervention services, as well as to data on preschool expulsions by age, race, gender, disability, and home language.

Online Licensing and Monitoring Information

Online sources of licensing and monitoring information available to the public and potential consumers can positively influence parents' choices in caregivers. States must make a searchable list of all licensed providers available on their consumer education website. States have the option to include license-exempt providers, who in some cases may only be providing care for a short time or for families they know. States should consider what portion of their child care is license exempt and the various providers represented in the category, to determine whether to include license-exempt non-relative providers in the searchable database. If states do include license-exempt providers in the database, they should take precautions to ensure that providers' privacy is respected, and that providers who do not wish to serve children beyond their friends and families are not presented as a care option for other families.

It is also important that that the information that states are providing to parents is accurate, and that providers have mechanisms available to easily and quickly correct any misinformation. The regulations require states to have procedures in place to review and correct erroneous information about providers in a “timely” manner, which is not specifically defined. States should also consider policies to offer all providers opportunities to challenge inspection findings with which they disagree and a process for correcting information if necessary based on an appeals process and review. Some states currently sharing this type of information electronically allow providers to do an initial review of the posting or respond publicly when complaints or violations are posted.³

In addition, the regulations require states to include information about the quality of individual providers, if information is available, on the consumer education website, and are strongly encouraged to use QRIS ratings or another transparent system of clear, research-based quality indicators for this purpose. In meeting this requirement, states with QRIS may want to consider the number of providers in their state participating in their QRIS systems, and whether it is a reasonable representation of the full range of quality programs available to families. States are not required to include information about providers for whom it is not available, but if QRIS data do not provide a sufficient picture of families' options, states should strive to identify indicators easily or already collected in other ways (e.g. through licensing or professional development registries) that they can use to give families the most information possible in choosing care for their children.

States may consider requiring all child care providers to report incidents of serious child injuries or death to improve tracking capabilities. The final rule strongly encourages states to coordinate efforts with their state's child care licensing agency, state Child Death Review program, and the National Center for the Review and Prevention of Child Death.⁴

ENFORCEMENT OF LICENSING AND OTHER REGULATORY REQUIREMENTS

Key Provisions in the Law and Regulations Inspections of Providers

- The Act required that by November 19, 2016, states must put policies and practices in place to regulate and monitor all providers offering services under CCDBG, including license-exempt providers. The final rule clarified that states can develop alternative means of monitoring care taking place in a child's home, and that relative caregivers are exempt from this requirement.
- Inspections for licensed, regulated, registered, and license-exempt care may be conducted by licensing inspectors or qualified inspectors as designated by the state.⁵
- The final rule requires states to make efforts to coordinate across different programs and agencies that do on-site monitoring of child care providers, including QRIS, Head Start, and CACFP, to prevent duplication of services and ease the burden on both the state and the provider.
- The final rule allows—and encourages—states to use differential monitoring strategies, as long as the monitoring is representative of the required health and safety standards and all CCDBG providers receive an annual inspection.

Licensed Child Care

- States must certify that they have licensing requirements and describe in their state plans how those requirements are enforced.
- The law requires licensed CCDBG providers to receive a pre-licensing inspection. The final rule clarifies that licensed providers already caring for children under CCDBG can meet this requirement through their regular annual inspection.
- Licensed providers providing care to children under CCDBG must be subject to at least one annual, unannounced inspection for compliance with all child care licensing standards, including health, safety, and fire standards.
- Licensing inspectors must be qualified and receive training in related health and safety requirements and all aspects of the state's licensure requirements.
- States must ensure a sufficient ratio of licensing inspectors or qualified inspectors to child care providers to maintain annual inspections.

License-Exempt Child Care

- License-exempt providers caring for children under CCDBG (except for those related to all children in their care) must be subject to an annual inspection—which does not need to be

unannounced—for compliance with health, safety, and fire standards at a time to be determined by the state.

- State plans must include an explanation of how care provided by license-exempt providers does not endanger the health, safety, or development of children.

Implementation Considerations

Every state currently has child care licensing requirements and mechanisms for enforcement. All states also determine which providers are required to be licensed or regulated and which providers may be legally exempt from licensing. Regular monitoring of child care settings is an important element of protecting children's health and safety in child care, and incorporating unannounced inspections can increase the likelihood that key health and safety regulations are implemented correctly and consistently. When information from monitoring visits is coupled with technical assistance, providers can get help complying with standards.⁶

The reauthorization requirement for annual inspections is limited to providers receiving CCDBG funds. However, the preamble to the final rule encourages states to conduct annual inspections on all licensed providers regardless of whether they are receiving CCDBG funds. States without annual inspections of all licensed child care centers and family child care homes risk creating a bifurcated system in which children receiving CCDBG assistance have access to only some licensed child care providers because the rest have not been inspected. States may consider various approaches to monitoring, such as reducing the frequency of full compliance reviews for licensed providers and instead adopting abbreviated monitoring systems based on valid methodologies, as allowed under the differential monitoring provision of the final rule.

Pre-Licensing and Annual Inspections of Licensed Providers

All state lead agencies currently have licensing

standards that must be met by licensed providers, and licensors on staff to ensure providers are meeting those requirements. However, many states are not yet meeting the requirements of the reauthorization law because they do not require regular inspections of all types of providers, do not require monitoring visits to be unannounced, and/or do not require these visits to be conducted annually. Even fewer states meet the National Association for Regulatory Administration's (NARA's) recommendation for no fewer than two inspections, including one unannounced visit, per year for every licensed child care provider.

For monitoring to be effectively conducted, licensing staff need reasonable caseload sizes that allow them to monitor on a regular basis and promptly investigate complaints against providers.

Prior to the reauthorization law, 50 states conducted a pre-licensure inspection of child care centers and most states conducted a pre-licensure inspection of family child care homes. In the majority of states, pre-licensure visits were announced.⁷ Forty-seven states conducted *annual* or more frequent monitoring visits of licensed centers prior to the law, and 23 states conducted annual or more frequent monitoring visits for licensed family child care providers; some states did not require that these visits be unannounced.⁸

The reauthorization law requires that states have a sufficient number of licensing inspectors to fulfill the inspection requirement. Prior to the law, many states' caseload sizes for licensing staff did not meet this provision. The average caseload size across the country was 103 centers and homes for every one licensing line staff, with caseloads as high as 231 facilities in Vermont.⁹ While the CCDBG law

does not specify a standard caseload size, NARA recommends an average inspector caseload of a maximum of 50 to 60 facilities. For monitoring to be effectively conducted, licensing staff need reasonable caseload sizes that allow them to monitor on a regular basis and promptly investigate complaints against providers.

While the provisions of the law will move states toward best practice in licensing and monitoring, they will require significant additional resources. In order to visit more providers more frequently, states have turned to various monitoring methods that may be more cost effective, such as differential monitoring.

Annual Inspections of License-Exempt Providers

On-site monitoring is an important part of ensuring safe child care settings, and if done well, can bring valuable technical assistance and support to help providers—including license-exempt providers, or family friend and neighbor (FFN) providers—better promote children's health and safety and increase the quality of care. However, monitoring license-exempt providers can present a number of challenges different from those involved with monitoring licensed providers—and few states have experience with monitoring license-exempt providers receiving CCDBG funds.¹⁰

The law allows flexibility for states to determine the most appropriate methods for inspecting license-exempt care, and it explicitly allows states to exclude relative caregivers from the inspection requirements. For license-exempt caregivers that are subject to the requirements, inspections do not have to be unannounced. By opting for announced visits for license-exempt providers, states can help providers who are unfamiliar with an inspection visit become accustomed to the new requirement. Announced visits also accommodate the needs of the many license-exempt caregivers that do not have regular program hours or that provide care on the weekends or during evening hours. States will need to consider the implications of having inspectors visit providers when children are

present, or not, during non-traditional hours, and design policies that are both effective and responsive to the needs of those providers and children. For license-exempt providers, states should consider identifying different or non-traditional inspectors (for example, those that are trusted by the communities in which they work) and designing an on-site inspection that meets legal requirements and helps providers comply with requirements.

States should also think about how to use annual inspections as a technical assistance opportunity, rather than solely a compliance review. Inspectors can visit providers equipped with resources that they may need, such as fire extinguishers, child safety plugs, smoke detectors, first aid kits, and other supplies to help providers meet standards, as well as educational materials for children and providers. If providers are not compliant with health, safety, and fire standards, states should allow providers at least some time to come into compliance, unless there is an immediate threat to children's well-being. If inspectors are used to provide technical assistance, states will need to provide specialized training to broaden the inspectors' expertise. In conducting inspections, states may be able to leverage other resources and programs already in contact with license-exempt providers.

A small number of states and communities have used home visiting as a strategy to bring resources and support to license-exempt caregivers. Because many home-visiting models address health and safety and optimal child development practices, states can consider coordinating with state home-visiting programs and qualifying home visitors to meet the CCDBG inspection requirement. Here, too, states would need to think through the full range of implications and ensure compliance with the statute.

While the law establishes new requirements for license-exempt providers that may prove challenging for states, it is essential that

license-exempt providers remain an option for families receiving child care subsidies. License-exempt care is often the preferred option because the family feels comfortable with a friend or family caregiver, or because the caregiver understands the family's language or culture. In many cases, license-exempt care is the family's only option because the parent works night, early morning, or weekend hours and no licensed providers are available during those times or because the parent has variable, unpredictable hours and licensed providers are unable to manage a constantly changing work schedule. It also may be the only option in some communities, particularly in rural areas. In such cases, license-exempt care is the best choice for meeting the law's dual goals of supporting both children's access to high-quality care and parents' employment.

As states collect and report on data from monitoring visits, they should identify areas of recurring non-compliance in order to focus training and technical assistance efforts for child care and licensing staff. In this way, states can use increased on-site monitoring as a tool for continuous quality improvement, not just an enforcement mechanism.

Alternative Methods for Monitoring In-Home Care

A very small share of CCDBG-funded care is provided in the child's own home. However, the few families that use care in the child's own home may do so because of circumstances that severely limit their access to other options—circumstances such as a child's serious disability or a parent's work schedule that requires overnight care. Therefore, it is very important that states not further restrict access to care provided in the child's home. The final rule clarifies that care in children's homes must meet the monitoring requirements under the law, but that states can develop alternative methods for monitoring care taking place in the child's home. The HHS Administration for Children and Families (ACF) encourages states using alternative methods to emphasize training and technical assistance on

the safety of families' home environments. States are also encouraged to consider appropriate entities for monitoring, such as resource and referral or other community organizations.

ESTABLISHMENT AND ENFORCEMENT OF HEALTH AND SAFETY REQUIREMENTS

Key Provisions in the Law and Regulations

Ratios and Group Size

- States must determine standards for CCDBG providers that address: group size limits for different ages; appropriate child-to-provider ratios, in terms of age of children; and required qualifications for providers.

Health and Safety Training

- The CCDBG law required states to certify that they have established health and safety requirements applicable to CCDBG child care providers in 10 substantive areas: prevention and control of infectious diseases (including immunizations); prevention of sudden infant death syndrome and use of safe sleeping practices; administration of medication; prevention of and response to emergencies due to food and allergic reactions; building and physical premises safety; prevention of shaken baby syndrome and abusive head trauma; emergency preparedness and emergency response planning; the handling and storage of hazardous materials and the appropriate disposal of biocontaminants; appropriate precautions in transporting children (if applicable); and first aid and CPR. The final rule added the recognition and reporting of child abuse and neglect to that list of health and safety topics.
- States must ensure that providers receiving CCDBG funds complete minimum pre-service or orientation health and safety training as well as ongoing training. The final rule requires that pre-service or orientation training must be completed within three months of caring for children and that providers must be supervised until specific trainings are complete.¹¹

- Training must be appropriate to the provider setting, age of children served, and address the 11 health and safety topics identified in the law and the final rule. The final rule also requires that the training cover child development.
- States are encouraged to include training requirements related to nutrition, physical activity, caring for children with special needs, or other areas determined to promote child development or protect children's health and safety.

Compliance with Health, Safety, and Child Abuse Reporting Requirements

- States must certify that they have procedures to ensure that providers receiving CCDBG funds comply with all state or local health and safety requirements.
- States must certify that all child care providers comply with the state's child abuse reporting requirements as required by the federal Child Abuse Prevention and Treatment Act (CAPTA).

Disaster Planning

- The state plan must include a Statewide Child Care Disaster Plan to ensure children are safe before, during, and after a major emergency.
- The Disaster Plan should outline coordination of activities among the state Lead Agency, the licensing agency, local resource and referral organizations, the state resource and referral system, and the State Early Childhood Advisory Council. It must provide for the continuation of subsidies and services, and must cover at least providers who receive funding under CCDBG, and other providers as determined by the state.
- The final rule clarifies that Statewide Disaster Plans should address and ensure providers have provisions in place for, "evacuation, relocation, shelter-in-place, and lock-down procedures; procedures for staff and volunteer emergency preparedness training and practice drills; procedures for communication and reunification with families; continuity of

operations; and accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions."

- The rule specifically addresses the need for procedures and health and safety standards that address instances where parents or legal guardians cannot be reached.
- The rule requires that the Disaster Plan address the need to have adequate supplies available to accommodate very young children or those with disabilities or medical conditions.

Implementation Considerations

Ratios and Group Size

Having sufficient staff available to provide the supervision and individualized care that children need is a critical component of high-quality child care. When one caregiver is responsible for only a small number of children, the caregiver is better able to offer one-on-one attention to each child and have more interactions that encourage language and healthy social-emotional development. Research shows that both child development and caregiving quality improve when provider-to-child ratios, as well as group sizes (i.e., the number of children assigned to a caregiver or team of caregivers in a classroom, or well-defined space within a larger room), are better.¹²

While states are not required to set requirements for provider-to-child ratios or group sizes at any particular level, in setting or adjusting their requirements, the final regulations urge states to consider the research-based recommendations of *Caring for Our Children Basics*, which are a set of minimum, baseline standards for health and safety. *Caring for Our Children Basics* is based on *Caring for Our Children: National Health and Safety Performance Standards (Caring for our Children)*, a joint effort by the American Academy of Pediatrics (AAP), the American Public Health Association (APHA), and the National Resource Center for Health and Safety in Child Care and Early Education.¹³ *Caring for Our Children Basics*

recommends that ratios and group sizes be established based on the ages and needs of children and offers recommended ratios and group sizes for centers and family child care homes.¹⁴ As *Caring for Our Children Basics* are minimal standards, states may also consult *Caring for Our Children's* recommendations, which set higher standards, as well as Head Start and Early Head Start standards for guidance.

Prior to the CCDBG reauthorization, 11 states did not regulate group size for any age groups of children and an additional 10 states did not regulate group size for at least one age group.¹⁵ Seventeen states did not regulate group size for at least one age group of children under five years old.¹⁶ As states adopt new group size requirements or improve existing requirements, they will need to plan for the changes and offer support and assistance to providers to help them come into compliance with these requirements—for example, by making space modifications or hiring additional staff.

Health and Safety Training

The establishment of minimum health and safety training requirements is an important step forward for improving children's safety in care. Pre-service or orientation training and ongoing training will allow providers to be better prepared to care for children. States should have a plan in place for approving training content and the expertise of training providers to ensure the accountability and quality of training. In order to take advantage of existing resources and avoid duplication, states should coordinate any new training with existing training opportunities available through CCR&Rs, community colleges, and other entities.

The CCDBG law allows the pre-service training requirement to be met during an orientation period, which ACF has defined as three months. The rule requires that providers caring for children must be supervised during the orientation period until certain fundamental trainings critical to children's health and safety—pediatric first aid and CPR, safe

sleep, prevention of communicable disease, poison prevention, and shaken baby syndrome/abuse head trauma—are complete. Since such supervision is typically unavailable to license-exempt and family child care providers, and therefore they cannot take advantage of this additional time, states should consider how they can facilitate these providers' access to the required health and safety training.

To expand providers' access to training opportunities, states should help providers overcome the barriers they face, including cost, limited English proficiency, and inability to take time off of work to attend classes. Increasing the education levels of the provider workforce also requires addressing the needs of non-traditional students who must juggle work and family responsibilities. Training should be accessible for providers through many avenues—including online and community based—and the training should articulate to credentials and degrees. To the extent practicable, trainings should be offered in multiple languages.

Compliance with Health and Safety Requirements

The reauthorization law specifies health and safety requirements for CCDBG-funded providers. While these requirements apply to all CCDBG providers, states have the option of exempting individuals caring only for related children from some or all CCDBG health and safety requirements. States that choose to exempt relative caregivers must provide a description of any exemptions to health and safety requirements and explain the exemption to the parent via the consumer education statement. Prior to reauthorization, as of 2012, 19 states reported requiring relative CCDBG providers to comply with all health and safety requirements, while 26 states required compliance with a subset of health and safety requirements.¹⁷

Disaster Preparedness

Maintaining the safety of children in the event of a

disaster or emergency is of critical importance. Following a large disaster or emergency, the need for emergency child care services or the rebuilding of child care facilities in a community can be an important priority. ACF's Office of Child Care (OCC) has offered guidance to states in emergency preparedness and response (see additional resources at the end of this chapter).

CRIMINAL BACKGROUND CHECKS

Key Provisions in the Law and Regulations

Background Check Requirements

- States must require a comprehensive set of criminal background checks for all child care staff of licensed, regulated, and registered child care providers—regardless of whether they are receiving CCDBG funds—and all eligible CCDBG providers unless they are related to all children in their care.
- Persons subject to background checks include any individual employed by a child care provider for compensation, including contract employees, or whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider.
- The final consolidated list of required checks, based on the law and final rule, are: a Federal Bureau of Investigation (FBI) fingerprint check using Next Generation Identification; a search of the National Crime Information Center's (NCIC's) national Sex Offender Registry; and a search of the state criminal registry or repository, state sex offender registry or repository, and state-based child abuse and neglect registry and database in the staff person's current state of residence and any state where he or she has resided within the past five years.
- All individuals subject to checks must undergo this comprehensive criminal background check at least every five years.
- Prospective staff who have undergone the check while previously employed with another provider

within the past five years do not need a new check to start working with a new provider.¹⁸

- Providers awaiting background check results may care for children on a provisional basis, provided that the staff person is under supervision, and that either the FBI fingerprint check or the search of the state criminal repository in the state where the staff member resides has been completed.
- Any provider who employs a staff member for whom the checks described above reveal a disqualifying conviction (or who refuses to consent to the criminal background check or knowingly makes a materially false statement in connection with such criminal background check) will be barred from receiving CCDBG assistance. Disqualifying convictions include specific felonies, as well as violent misdemeanors involving children.¹⁹
- For staff members employed prior to the enactment of the reauthorization law, providers must request background checks by September 30, 2017.
- States must meet all background check requirements by September 30, 2017. A one-year extension may be granted if the state demonstrates a good faith effort to comply with the requirements. HHS is authorized to withhold 5 percent of CCDBG funds from states for non-compliance with background check requirements.

Required Protections for Providers

- A state must complete a background check within 45 days of the request for the check.
- States must have policies and procedures in place for individuals to appeal the findings of the criminal background checks. If a finding is appealed, states must attempt to verify the finding. The appeals process should be timely, with states acting on appeals within 30 days.
- States completing background checks may disclose to the provider only whether the staff member (or potential staff member) is eligible for

employment, without revealing any disqualifying crime. If the staff member is ineligible, however, the state must provide that individual with a notice identifying the specific disqualifying crime(s), as well as information at the same time about the process to appeal the determination. Only convictions may be considered disqualifying, not arrests.

- States are permitted to charge providers a fee for costs associated with processing applications and administering the criminal background check system, but are prohibited from charging more than the actual cost to the state or profiting from background check fees.

Implementation Considerations

The CCDBG Act of 2014 includes important provisions to strengthen criminal background check requirements for child care providers.

The provisions apply to all licensed, regulated, or registered child care providers (including child care centers and family child care homes); all providers receiving CCDBG funds, excluding relative caregivers; and adult members of family child care homes. Because the definition of eligible CCDBG provider is broad and inclusive of in-home providers and providers of child care services for compensation, the background check requirement is applicable to all child care providers known to the state, regardless of whether the state has a different term for a provider group, such as “certified” or “listed.” The rule clarifies that parent volunteers with supervised access to children are not intended to be included in the background check requirement. While all states have required at least some background checks, when the reauthorization law was approved no states had in place the full set of checks mandated by the law.

The rule made technical changes to the required components of a comprehensive background check for the purposes of complying with CCDBG law. In the preamble to the final rule, ACF acknowledges overlap, as well as discrepancies, between the multiple federal and state checks. Additionally, ACF explains many challenges in using the NCIC, which

is a law enforcement tool and restricted to use by law enforcement agencies. Due to these challenges, ACF will not require compliance with the requirement to search the National Sex Offender Registry of the NCIC until issuing joint guidance with the FBI on how to conduct such a search. To date, such guidance has not been released.

The preamble also acknowledges additional challenges to cross-state checks, including closed-record states that will not release records to other states and the lack of uniformity in information contained in state child abuse and neglect registries and records. ACF states that it will not “penalize states that have made a good faith effort to request information from other states.” Further, ACF urges caution in handling child abuse and neglect findings as state definitions of substantiated cases differ and some state records include unsubstantiated complaints or instances. The existence of a child abuse or neglect registry finding is not on its own disqualifying event; rather, each finding must be evaluated individually. The rule clarifies that cross-state fingerprint checks are not required as there is currently not an automated mechanism to share fingerprints across many states, and permits the use of name-based searches when conducting searches of other states’ records. However, states should thoroughly investigate any findings yielded by name-based searches to ensure that the results are for the individual being investigated.

The law establishes a set of disqualifying convictions, including specific felonies as well as violent misdemeanors involving children, that apply to individuals serving children receiving CCDBG funds. States are permitted to identify similar disqualifying crimes for child care providers who are not receiving CCDBG funds, as well as additional disqualifying crimes for CCDBG providers. However, the final rule discourages states “from considering additional disqualifying crimes. Casting too wide a net could have adverse effects on the supply of family child care providers and other consequences for individuals returning from incarceration.” States

adding disqualifying crimes are encouraged to establish strong waiver and appeals processes that conform to the recommendations of the U.S. Equal Employment Opportunity Commission (EEOC) on the consideration of criminal records in employment decisions to ensure compliance with the prohibition against employment discrimination in Title VII of the Civil Rights Act of 1964 (see additional resources), which includes individualized consideration of the nature of the conviction, its relationship to the ability to care for children, and the length of time since the conviction, as well as other circumstances and considerations.

States need to design procedures to ensure background checks are completed within 45 days of the request. Obtaining results of background checks quickly is crucial for parents who need child care immediately in order to start a job or an education or training program, as well as for providers waiting to be eligible for payments. States are permitted to allow providers to care for children provisionally, under supervision, while background checks are being completed provided that either the FBI or state criminal records check has been completed using a fingerprint search. This requirement does not allow home-based providers to care for children provisionally without being under the supervision of another individual. States may want to use creative strategies to address such situations—for example, by establishing a pool of supervisors who have completed background checks and who could be available for in-home providers while checks are being completed.

States must also develop an appeals process that can be completed in a reasonable timeframe. Individuals must have an opportunity to challenge the accuracy or completeness of background checks and ensure that erroneous results do not impair their employment prospects. FBI records in particular are often incomplete and do not include the final disposition of an individual's case, yet in many cases this missing information is favorable to

job seekers—making it particularly important that affected individuals have an opportunity to show, for example, that an arrest did not result in conviction or was reduced to a lesser offense.²⁰ The final rule includes important protections for providers, including a requirement that disqualifying results be shared with individuals along with information on the appeals process. If an appeal is filed, states must attempt to verify the accuracy of the information challenged and locate any missing disposition information. In a timely manner, individuals should receive notice of the result of the appeal, including the state's efforts to verify the accuracy of the information (in the case of a negative determination).

States must also offer the individualized review process authorized by the law, during which they can determine whether a prospective employee who has been convicted of a disqualifying drug-related offense can be deemed eligible for employment despite that record. The reauthorization law specifies that this review process must be consistent with Title VII. States should consult the EEOC's guidance in designing their review process.

States are encouraged to establish procedures that prevent child care providers from having to undergo duplicative checks—for example, having to complete the full set of background checks for a second time within less than five years due to a change of employment. Prior to the new CCDBG requirements, Utah minimized such duplication by running fingerprint checks on individual caregivers every five years and renewing background screenings every year, and then issuing a card to travel with the caregiver to present for employment at any child care facility.

Finally, the costs entailed by the new background checks include costs to develop a process for the background checks and to run the checks; infrastructure for gathering information required for the background checks; and resources for

coordinating among different agencies responsible for different background checks. While states are prohibited from charging providers excessive fees beyond the costs of process background checks, those background check costs alone may be prohibitively expensive for family child care providers. States may use CCDBG funds to pay background check fees for providers and household members.

ADDITIONAL RESOURCES

Connecting Families with Benefits and Services and with Information on Child Development

- CLASP and Urban Institute, *Confronting the Child Care Eligibility Maze: Simplifying and Aligning Child Care with Other Work Supports*, <http://www.clasp.org/resources-and-publications/publication-1/WSS-CC-Paper.pdf>.
- U.S. Department of Health and Human Services, *Birth to 5: Watch Me Thrive*, <http://www.acf.hhs.gov/programs/eecd/child-health-development/watch-me-thrive>.
- CLASP, *First Steps for Early Success: State Strategies to Support Developmental Screening in Early Childhood Settings*, <http://www.clasp.org/resources-and-publications/publication-1/State-Strategies-to-Support-Developmental-Screening-in-Early-Childhood-Settings.pdf>.
- U.S. Departments of Education and Health and Human Services, *Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings*, http://www.acf.hhs.gov/sites/default/files/eecd/expulsion_suspension_final.pdf.

Emergency Preparedness

- ACF Information Memorandum (CCDF-ACF-IM-2011-01), *Framework for Developing Child Care Emergency Preparedness and Response Plans, Attachment A: Emergency Preparedness and Response Resources for Child Care*, <http://www.acf.hhs.gov/programs/occ/resource/information-memoradum-ccdf-acf-im-2011-01>.

Licensing and Inspections

- Child Care Aware of America, *We Can Do Better—2013 Update: Ranking of State Child Care Center Regulations and Oversight*, <http://usa.childcareaware.org/families-programs/background-checks/>.
- National Center on Child Care Quality Improvement and National Association for Regulatory Administration, *Briefs on Trends in Child Care Licensing Regulations and Policies for 2014*, <http://www.naralicensing.org/2014-cc-licensing-study>.
- CLASP, *Charting Progress for Babies in Child Care: Expand Monitoring and Technical Assistance*, http://www.issuelab.org/resource/charting_progress_for_babies_in_child_care_expand_monitoring_and_technical_assistance.
- CLASP, *Extending Home Visiting to Kinship Caregivers, and Family, Friend, and Neighbor Caregivers*, <http://www.clasp.org/resources-and-publications/files/homevisitingkinshipffn.pdf>.
- CLASP, *Home Away From Home: A Toolkit for Planning Home Visiting Partnerships with Family, Friend, and Neighbor Caregivers*, <http://www.clasp.org/resources-and-publications/files/Home-Away-from-Home.pdf>.

Background Checks

- Child Care Aware of America, *Background Checks*, <http://usa.childcareaware.org/families-programs/background-checks/>.
- U.S. Equal Employment Opportunity Commission, *Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act of 1964*, http://www.eeoc.gov/laws/guidance/upload/arrest_conviction.pdf.

- 1 Gregory Mills, Jessica F. Compton, and Olivia Golden, *Assessing the Evidence about Work Support Benefits and Low-Income Families*, Urban Institute, 2011, <http://www.urban.org/research/publication/assessing-evidence-about-work-support-benefits-and-low-income-families>.
- 2 U.S. Department of Health and Human Services and U.S. Department of Education, *Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings*, 2014, <https://www2.ed.gov/policy/gen/guid/school-discipline/policy-statement-eece-expulsions-suspensions.pdf>.
- 3 National Association for Regulatory Administration (2013), *The 50-State Child Care Licensing Study: 2011-2013 Edition*, <http://www.naralicensing.org/child-care-licensing-study>.
- 4 For more information, see The National Center for the Review and Prevention of Child Deaths, http://www.who.int/pmnch/about/members/database/Center_Review_Prevention_Child_Deaths/en.
- 5 The law specifies that inspection requirements apply to licensed, regulated, and registered providers. States differ with respect to which providers are required to be licensed, regulated, or registered, or are exempt from licensing. For purposes of this guide, references to licensed providers include those regulated and registered providers to whom the law applies.
- 6 Stephanie Schmit and Hannah Matthews, *Better for Babies: A Study of State Infant and Toddler Child Care Policies*, CLASP, 2013, <http://www.clasp.org/docs/BetterforBabies2.pdf>.
- 7 National Association for Regulatory Administration, *The 50-State Child Care Licensing Study: 2011-2013 Edition*, 2013, <http://www.naralicensing.org/child-care-licensing-study>.
- 8 National Association for Regulatory Administration, *The 50-State Child Care Licensing Study: 2011-2013 Edition*, 2013, <http://www.naralicensing.org/child-care-licensing-study>.
- 9 U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care, National Center on Child Care Quality, *Trends in Child Care Center Licensing Regulations and Policies for 2011, 2013*, http://www.qrisnetwork.org/sites/all/files/resources/Debi%20Mathias/2012-12-01%2007:08/999_1208_Center_Licensing_Trends_Brief_FINAL.pdf.
- 10 A 2005 survey of states found that six states made home visits to license-exempt providers receiving subsidies. Georgia, Idaho, and New Jersey required caregivers to agree to one home inspection. Louisiana made one unannounced home visit annually. Arizona required two annual visits, and Arkansas required three annual visits. Nevada required home visits for non-relative caregivers, during which it provided health and safety kits. Toni Porter and Shannon M. Kearns, *Supporting Family, Friend and Neighbor Caregivers: Findings From a Survey of State Policies*, 2005, <http://www.researchconnections.org/childcare/resources/4790/pdf>.
- 11 The rule requires supervision until training related to pediatric first aid and CPR, safe sleep, prevention of communicable disease, poison prevention, and shaken baby syndrome/abuse head trauma are complete.
- 12 See U.S. Department of Health and Human Services, National Institutes of Health, National Institute of Child Health and Human Development, *The NICHD Study of Early Child Care and Youth Development: Findings for Children Up to Age 4 ½ Years*, 2006, https://www.nichd.nih.gov/publications/pubs/documents/seccyd_06.pdf.
- 13 American Academy of Pediatrics, American Public Health Association, and National Resource Center for Health and Safety in Child Care, "Standard 1.1.1.2: Ratios for Large Family Child Care Homes and Centers," *Caring for Our Children, Third Edition*, 2011, <http://cfoc.nrckids.org/StandardView/1.1.1.2>. See also "Standard 1.1.1: Ratios for Small Family Child Care Homes," *Caring for Our Children, Third Edition*, 2011, <http://cfoc.nrckids.org/StandardView/1.1.1>.
- 14 Administration for Children and Families, *Caring for our Children Basics*, Department of Health and Human Services, 2015, https://www.acf.hhs.gov/sites/default/files/ece/caring_for_our_children_basics.pdf.
- 15 U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care, National Center on Child Care Quality, *Trends in Child Care Center Licensing Regulations and Policies for 2011, 2013*, http://www.qrisnetwork.org/sites/all/files/resources/Debi%20Mathias/2012-12-01%2007:08/999_1208_Center_Licensing_Trends_Brief_FINAL.pdf.
- 16 Child Care Aware of America, *We Can Do Better: Child Care Aware® of America's Ranking of State Child Care Center Regulations and Oversight*, 2013, <http://usa.childcareaware.org/advocacy-public-policy/resources/reports-and-research/we-can-do-better-2013-update/>.
- 17 CLASP review of 2012-2013 state CCDF plans.
- 18 Staff must have been employed by the prior provider within the previous 180 days.
- 19 The complete list includes: murder, child abuse or neglect, a crime against children, including child pornography; spousal abuse; a crime involving rape or sexual assault; kidnapping; arson; physical assault or battery; a drug-related offense committed within the preceding five years; a violent misdemeanor committed as an adult against a child including child abuse, child endangerment, sexual assault; or a misdemeanor involving child pornography.
- 20 See Madeline Neighly and Maurice Emsellem, National Employment Law Project, *Wanted: Accurate FBI Background Checks for Employment* (9-10), 2013, <http://www.nelp.org/page/-/SCLP/2013/Report-Wanted-Accurate-FBI-Background-Checks-Employment.pdf?nocdn=1>.

Child Care Program Standards and Quality Improvement Activities

To support the goals of improving the quality of care and increasing the number and percentage of low-income children in high-quality child care settings, the CCDBG Act of 2014 increases the amount of funds states are required to spend on quality improvement activities. The law also drives quality funds toward improving the supply and quality of care for infants and toddlers. High-quality infant-toddler care is among the least available and affordable care for families, despite the critical importance of nurturing care during the earliest years. CCDBG quality dollars are used to support quality improvement for all children, not just low-income children, and in many cases are the foundation of other early learning initiatives, such as quality rating and improvement systems. Finally, the law offers strategies for increasing the quality of care through more robust program standards and training and professional development for providers.

In this Chapter:

- Activities to Improve the Quality of Child Care
- Early Learning and Development Guidelines
- Professional Training Requirements

ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE

Key Provisions in the Law and Regulations Quality Set-Aside

- The reauthorization law increases the portion of CCDBG funds that states must reserve to improve child care quality among all providers (not just CCDBG providers) and increase access to high-quality care (the “quality set-aside”), which was 4 percent through FY 2015. States must reserve at least:
 - 7 percent in FY 2016 and FY 2017
 - 8 percent in FY 2018 and FY 2019 and
 - 9 percent in FY 2020 and each year thereafter.
- The regulations clarify that the amount of the quality set-aside—as well as the amount of the infant-toddler set-aside discussed below—is calculated as a percentage of the state’s full CCDBG award, including discretionary, mandatory, and federal and state matching funds (although not non-federal maintenance-of-effort funds). The regulations also codify the longstanding policy that targeted funds for quality improvement and other activities included in appropriations law may not count towards meeting the minimum quality set-aside requirement, unless otherwise specified by Congress. In addition, the preamble to the regulations notes that the quality set-aside percentages are minimum requirements; states may devote a larger amount than required to quality.
- States must expend quality set-aside funds on at least one activity specified in the reauthorization law and based on an assessment of need. The list of quality improvement activities allowed under the law is extensive and includes:
 - Supporting training and professional development of the child care workforce
 - Improving upon the development or implementation of the state’s early learning and development guidelines
 - Developing, implementing, or enhancing a tiered quality rating system
 - Improving the supply and quality of infant and toddler care programs

- Establishing or expanding a statewide system of child care resource and referral services
- Facilitating compliance with state requirements for inspection, monitoring, training, health and safety, and licensing
- Evaluating quality and effectiveness of child care programs
- Supporting providers seeking national accreditation
- Supporting efforts to develop high-quality health, mental health, nutrition, physical activity, and physical development program standards
- Carrying out other activities determined by the state to improve the quality of care for which measurement of outcomes related to provider preparedness, child safety, child well-being, or kindergarten entry is possible.
- The regulations explicitly allow the use of quality set-aside funds for financial incentives and compensation improvements for child care providers that obtain additional education credentials.
- The regulations specifically permit quality activities to be carried out by the state through grants and contracts with local child care resources and referral organizations or other appropriate entities.

Infant-Toddler Set-Aside

- In addition to the quality set-aside funds, beginning in FY 2017, 3 percent of CCDBG funds must be reserved for quality improvement activities related to care for all infants and toddlers. Activities to improve the supply and quality of infant-toddler care may include:
 - Establishing or expanding high-quality community- or neighborhood-based family and child development centers and/or neighborhood-based family child care networks to support the provision of high-quality care
 - Training and professional development for infant-toddler caregivers
 - Coaching and technical assistance from statewide networks of qualified infant-toddler specialists

- Coordination with early intervention specialists
- Developing infant-toddler components within the state's quality rating system, licensing regulations, or early learning and development guidelines
- Consumer education on high-quality infant-toddler care
- Other activities that will improve the quality of infant-toddler care.

Reporting Requirements

- Under the law, beginning in FY 2016, states must annually certify compliance with the quality set-aside requirements during the preceding fiscal year. Each state must submit an annual report describing the CCDBG funds reserved for quality improvement activities, the activities carried out, and measures the state will use to evaluate its progress in improving the quality of child care programs and services. The regulations require that each quality activity must be linked to some measurable indicator of progress (although multiple activities may share the same indicator).

Implementation Considerations

Quality Set-Aside

Improving the quality of services available to families receiving CCDBG assistance is a primary goal of the program's reauthorization. The law and regulations present a wide array of policy choices that can help states achieve that objective, and an in-depth discussion of all allowable quality improvement activities is beyond the scope of this guide.

States are required to assess the need for quality improvement activities and, in the preamble to the regulations, are encouraged to do so at least every three years. This is an important opportunity to direct quality dollars strategically to support child care goals. States should assess the full range of program quality improvement needs, from start-up grants and basic materials to access to postsecondary education for providers and specialized programs and supports. States must

carefully balance competing demands on their quality dollars, which, depending on the availability of additional state investments, may be relied on to fund all parts of the early childhood system from licensing to subsidy enhancements and systems-building such as quality rating and improvement systems (QRIS).

Each state should endeavor at the outset to develop a cohesive quality improvement strategy that can guide its policy choices within the framework outlined by the reauthorization law. For example, if a state plans to use some of its quality funds to support training and professional development for child care staff, it should consider how it will encourage individuals to remain in the field once they have completed an educational program—such as by offering financial rewards—so that children in child care have an opportunity to benefit from providers' additional skills and knowledge. If a state plans to use some of its quality funds for a new or enhanced QRIS, it should consider not only the administrative costs of designing a rating system and assessing programs for the purpose of rating them, but also the costs of reaching, engaging, and helping child care programs to improve their quality to achieve higher ratings, as well as the higher payment rates that are necessary to give programs an incentive to improve and maintain a higher level of quality (and to help the programs cover the additional costs entailed in doing so). States' costs of implementing QRIS also include the costs of reaching out to parents through multiple channels with information about what QRIS are, how they work, and how parents can use the systems to find high-quality child care.

Any quality improvement strategy should be designed to address the needs of all children, including children with special needs and children from diverse cultural and linguistic backgrounds. In addition, quality improvement strategies should take into account the comprehensive needs of children and families, including children's physical,

social-emotional, and cognitive development, as well as family engagement opportunities that encourage families' support for their children's learning in child care and at home.

While states are struggling to implement multiple policy requirements under the reauthorization law with limited resources, they should strategize on using these funds to support high-quality care in a comprehensive way. Although states may be tempted to devote all of their quality funds to a single narrow purpose—for example, covering the costs of implementing newly required inspections—such health and safety measures, while critical, are not sufficient to accomplish the goal of substantially raising the quality of care. At the same time, however, states can consider how their approaches to meeting requirements in the law may serve more than one objective. For example, if on-site inspections of license-exempt providers are designed thoughtfully, they may serve as a quality improvement strategy for child care in underserved areas, infant-toddler care, and non-traditional-hour care. Inspections can be an opportunity to offer providers technical assistance, materials, and supplies that help providers not simply meet minimal licensing requirements but enhance their overall quality.

With the increased quality set-aside comes increased accountability in the form of requiring outcome measures and evaluation of quality activities. In determining which outcomes to measure and how to do so, states should consider the range of ways that the research demonstrates quality activities can positively affect children and their families—and states should avoid narrowly focusing on one particular type of outcome measure or one particular dimension of children's development. For vulnerable children, quality supports include those that address physical, mental, emotional, and cognitive development. When measuring the outcomes of their quality improvement strategies, states should ensure that they use a variety of data and approaches

to evaluate the impact and effectiveness of those strategies.

If states use child assessments as a part of their evaluations, they must be appropriate for young children and follow the recommendations and cautions of the National Research Council reports on the use of child assessments.¹ Child assessments should not be the primary or sole method of assessing program activities. As stated in the law, assessment should be used to inform teaching practices and for continuous program improvement—not for high-stakes decisions about funding a particular program or provider, or for providing rewards or sanctions for individual children, teachers, or programs.

Infant-Toddler Set-Aside

With the provision establishing a permanent and expanded infant-toddler quality set-aside of 3 percent of a state's CCDBG funds, the reauthorization law also provides an opportunity for states to focus on specific strategies to improve the quality of care for very young children. The 3 percent set-aside is an increase from approximately 1.4 percent of CCDBG funds, or \$115 million, spent on infant and toddler program quality in 2014.² The importance of the earliest years for children's development³ makes it all the more essential to address the challenges families have in finding affordable, high-quality care for their infants and toddlers—which tends to be more costly than care for older children⁴ and is in short supply in many communities.⁵

As with their plans for using the overall quality set-aside, states should employ a carefully thought-out approach with their infant-toddler quality set-aside. States should take steps to both improve the quality of care for infants and toddlers and ensure parents have access to high-quality care for infants and toddlers, including by expanding the slots available for this age group (which is an allowable use of the set-aside funds). Direct contracts for high-quality infant-toddler care have been an effective strategy in states to increase the

supply of high-quality center- and home-based care for infants.⁶ Rate differentials for infant-toddler providers are also critical as current rates do not adequately cover the incremental costs for the provision of care that meets the needs of vulnerable young children. For example, the average cost of infant-toddler care is almost double the average subsidy payment in CCDBG.⁷ Quality funds may be used for direct services, in particular when they are tied to quality improvement efforts such as contracting directly with providers to build the supply of high-quality infant-toddler care.

In considering how to improve the quality of care for infants and toddlers, states should examine the unique needs of this age group—and the specialized professional development needs of the staff who work with them. In addition to the general professional development considerations discussed below, states can implement strategies tailored to staff serving very young children by, for example, providing access to infant and toddler specialists who can offer support and coaching to child care programs in meeting the developmental needs of very young children. At least 26 states have reported funding networks of infant and toddler specialists in the past.

States can use increased resources directed to infants and toddlers to build on other investments in the youngest children. For example, Early Head Start-Child Care Partnerships—federally funded grants for Early Head Start programs to partner with child care providers to provide full-day, full-year high-quality early care and education services—offer an opportunity to better align child care and Early Head Start. As grantees work to implement the partnerships successfully, states can direct infant-toddler resources in ways that support partnerships and increase the supply of child care providers who are able to meet high-quality standards to participate in partnerships.

Other strategies to consider—which a number of states have already implemented—include developing core competencies specific to

infant and toddler child care staff; offering specific infant-toddler certifications; providing targeted reimbursement and compensation for professional development among infant and toddler teachers; and offering higher payment rates to providers who serve infants and toddlers, in part to allow for increased compensation and better provider-to-child ratios that enable very young children to receive more individualized attention.⁸

Washington State funds a network of 35 infant-toddler specialists. The state's Department of Early Learning (DEL) funds each of its 10 Early Learning Regions to provide infant-toddler interdisciplinary child care consultations to licensed family child care homes and centers, and to coordinate an infant-toddler consultant network within each region. The DEL also hosts regular statewide interdisciplinary infant and toddler consultation networking meetings.⁹

EARLY LEARNING AND DEVELOPMENT GUIDELINES

Key Provisions in the Law and Regulations Elements of Early Learning and Development Guidelines

- The state must develop, maintain, or implement early learning and development guidelines for children from birth to kindergarten entry, describing what children should know and be able to do and covering the essential domains of early childhood development. The guidelines must be:
 - Research-based
 - Developmentally appropriate for children
 - Aligned with entry to kindergarten
 - Implemented in consultation with the state educational agency and the State Advisory Council on Early Childhood Education and Care
- Be designed for use by child care providers statewide and
- Be updated as determined by the state.
- The reauthorization law emphasizes that states retain independence over the content of the guidelines; the federal government is barred from prescribing the guidelines or requiring states to submit them for review.

Assessments

- The law clarifies that the early learning guidelines should not serve as the basis for any assessment that will be the sole basis to determine a provider is ineligible to participate in CCDBG; be used as the primary or sole basis to reward or sanction an individual provider; be used as the primary or sole method for assessing program effectiveness; or be used to deny children eligibility to participate in CCDBG. No CCDBG funds may be used to develop or implement any such high-stakes assessment.
- The law permits states to use a single assessment of children for any of the following purposes:
 - Supporting learning or improving a classroom environment
 - Targeting professional development
 - Determining need for health, mental health, disability, developmental delay, or family support services
 - Obtaining information for the state-level quality improvement process
 - Conducting a program evaluation to provide program improvement and parent information.

Implementation Considerations

The vast majority of states currently have early learning and development guidelines in place, including guidelines for infants and toddlers. However, even if they already have guidelines, states should review them to ensure they align with the state's professional development plan and other quality improvement efforts as designed or revised to comply with the reauthorization law. For example, states should examine how their professional development plan ensures that child

care providers have complete training on effectively using the guidelines to encourage children's learning and development. States should also ensure that the guidelines encourage children's individualized development and learning in a forward progression, with children building their knowledge and skills step by step—rather than, for example, taking a backward-mapping approach that determines where children should be in the infant, toddler, and preschool years based on where they are “expected” to be in kindergarten or a later grade. In addition, states should ensure the guidelines are designed and implemented with recognition of children's diverse linguistic and cultural backgrounds.¹⁰

The preamble to the regulations recommends that states coordinate their early learning and development guidelines with the Head Start Early Learning Outcomes Framework. Head Start's framework is a useful benchmark for states because it is based on extensive research regarding what young children should know and be able to do during their early years and how programs can foster children's development; because it is comprehensive, covering five central domains—approaches to learning, social and emotional development, language and literacy, cognition, and perceptual, motor, and physical development; and because it is designed to meet the needs of all children from birth to age five, including children from diverse linguistic, economic, and cultural backgrounds and children with disabilities. In addition, coordinating state guidelines with the Head Start framework can lay the groundwork for further collaboration between state child care assistance programs, other state early care and education programs, and Head Start. The preamble also encourages states to expand learning and development guidelines for school-age children.

Once states have developed or strengthened early learning and development guidelines, they should take steps to make the guidelines accessible to parents and providers—for example, by posting

them online in an easy-to-understand format, with examples of learning activities to illustrate the different standards and explanations of why specific standards are part of the guidelines. Providers should be encouraged to offer parents information about the guidelines so that they can understand what their children are learning in child care and how they can reinforce it at home.

In developing and applying any child assessments tied to the early learning guidelines, states should carefully follow the recommendations of the National Research Council on appropriate assessments and uses of assessments. When used appropriately—and as one of a variety of evaluation measures—assessment of children can help inform teaching practices and services, support continuous improvement, and strengthen the quality of children's early learning experiences. However, the use of child test scores for evaluations of teacher or program performance or for high-stakes funding decisions are not appropriate uses of child assessments, especially for the earliest years of education.¹¹

When used appropriately—and as one of a variety of evaluation measures—assessment of children can help inform teaching practices and services, support continuous improvement, and strengthen the quality of children's early learning experiences.

PROFESSIONAL DEVELOPMENT AND TRAINING REQUIREMENTS

Key Provisions in the Law and Regulations

In addition to recognizing training and professional development for the child care workforce as an authorized use of CCDBG quality set-aside funds, the reauthorization law and regulations require

states to have training and professional development requirements applicable to caregivers, teachers, and directors receiving CCDBG funds that promote child development and improve the knowledge and skills of the workforce.

Under the law and regulations, this training and professional development must:

- Be conducted on an ongoing basis and provide for a progression of professional development (which may include encouraging postsecondary education).
 - Reflect current research and best practices relating to skills necessary for the child care workforce to meet developmental needs of children and to improve the quality of, and stability within, the workforce.
 - Improve the diversity of the child care workforce and increase retention of child care providers, teachers, and directors. The rule specifically notes that states can improve retention by including financial incentives and higher compensation in their professional development plans.
 - Be developed in consultation with the State Advisory Council on Early Childhood Education and Care (and may also engage providers in aligning training opportunities with the state's training framework). The regulations encourage states, in developing their professional development framework, to also consult with entities that set state teacher standards and certificates, entities that award early childhood education credentials, institutions of higher education, child care providers, and early childhood education professional associations.
 - Incorporate the state's early learning and development guidelines (where applicable), health and safety standards, and social-emotional behavior intervention models.
 - Be accessible to providers supported through Indian tribes or tribal organizations that receive CCDBG assistance.
- Prepare staff to work with different age groups, English learners, children with developmental delays or disabilities, and Native Americans (to the extent practicable).
 - To the extent practicable, be credit bearing or award continuing education credits.

The regulations require each state's training and professional development framework to address six components:

- Professional standards and competencies: The set of knowledge and skills caregivers, teachers, and directors need to be able to provide high-quality child care and school-age care, including the foundational core knowledge as well as specialized competencies and professional development.
- Career pathways: Sequences of qualifications, credentials, and specializations from entry level that can build to more advanced professional competency recognition.
- Advisory structures: A formal effort to communicate and coordinate across multiple agencies offering training and professional development opportunities.
- Articulation: Agreements to ensure that higher education institutions match their courses or coursework requirements with one another, and allow the credit earned for an associate degree to count toward credits for a baccalaureate degree, to prevent students from repeating coursework when changing institutions or advancing toward a higher degree.
- Workforce information: Collection and evaluation of data to identify gaps in professional development accessibility, affordability, and quality.
- Financing: Funding for professional development infrastructure and the costs for individuals to access professional development, including postsecondary education.

In addition, the law requires each state's plan to indicate the number of hours of training required annually for providers (as determined by the state). The law also requires states to develop and implement strategies to strengthen the business practices of child care providers to expand the supply and improve the quality of child care services; the Secretary of the U.S. Department of Health and Human Services (HHS) may provide technical assistance to help states carry out this provision.

Implementation Considerations **Promoting Meaningful Professional Development and Retention of Qualified Providers**

Providers are central to the learning experience of children in child care, and quality of care is closely tied to quality of providers.¹² Yet many providers do not receive the preparation they need to offer high-quality care to children—because it is not required by the state and/or because providers are not able to access training and education opportunities—and those providers who do receive advanced education may choose to leave the field for higher-paying jobs. The reauthorization encourages states to develop a coherent strategy to ensure a stable, diverse, qualified child care workforce that has the skills and knowledge necessary to offer high-quality care. In designing their professional development plan, states should consider how to leverage and coordinate existing resources—including child care resource and referral agencies (CCR&Rs), community colleges, and other community and educational institutions—to expand training and education opportunities for providers.

In addition to key components of a comprehensive professional development system for the child care workforce laid out in the law and regulations, there are several additional elements to ensure the effectiveness of that system. To best understand the challenges and needs of the state's early childhood workforce, including challenges related to equity across programs, funding streams, and

communities, states should conduct comprehensive workforce studies and use the findings to inform their professional development systems.¹³

Providers are central to the learning experience of children in child care, and quality of care is closely tied to quality of providers.

Professional development providers and institutions of higher education, also, need to revisit strategies to effectively meet the needs of a diverse workforce, including support for coursework in non-English languages and supports for non-traditional students working full time and balancing their own caregiver roles.¹⁴ For example, states' professional development plans should include strategies—across provider types—for maximizing providers' ability to take advantage of professional development opportunities by making sure that classes are available during weekends and evenings when providers are not working and are offered in convenient locations (and/or online).

The regulations require, to the extent practicable, that professional development opportunities are credit bearing or result in continuing education credits. Research shows both a relationship between staff credentials and quality, as well as a relationship between higher educational attainment and wages.¹⁵ It is therefore important for states to consider how training and professional development link to stackable credentials, degrees, and professional advancement as well as to financial supports for students who need them.¹⁶

States' professional development systems should support providers in developing the skills necessary to work with an increasingly diverse young child population.¹⁷ Providers of all backgrounds should receive meaningful training in cultural competency and in knowledge of dual or second language

acquisition. Professional development opportunities should also address family engagement strategies for working with diverse families and both racial bias and positive discipline practices designed to address the disproportionate suspension and expulsion of Black boys and girls from early education programs.¹⁸ In addition, states should recruit and support a diverse workforce through steps such as offering community-based training in multiple languages and helping individuals who speak languages other than English access licensing and professional development systems.

States' plans should address methods for keeping providers in the field once they have received additional training and education on early childhood education and care. For example, states could adopt the T.E.A.C.H. Early Childhood[®] Project, which currently operates in 23 states and the District of Columbia,¹⁹ or a similar approach that offers scholarships or other financial supports to child care staff for furthering their education and increased compensation once they complete their coursework if they agree to remain with their child care program for a certain period of time. States can also adopt approaches such as WAGE\$[®], which aims to increase the compensation of providers who already have attained credentials.²⁰ The ability to use quality set-aside funds for compensation and financial incentives, as specified in the regulations and discussed above, can be helpful with this approach.

Improving Business Practices

Many child care providers and directors could benefit from training in business practices given the challenges involved in operating a program on a tight budget—and given the fact that many providers' educational background is in early childhood care and education rather than in business management. Training in business practices can be particularly helpful to individuals running independently operated small child care centers or family child care homes that do not have the support of a larger umbrella corporation or organization to handle administrative and financial

responsibilities. The business training should be specifically tailored to the unique needs and circumstances of the child care industry and should reflect the mix of program types. For example, many child care programs are operated by non-profit organizations, which have specific legal and financial requirements and considerations related to that designation. In addition, if business practices are one of the criteria used in a state's QRIS, the training should be aligned with those criteria.

The practice of shared services has recently emerged as a strategy for strengthening child care business practices. Under a shared services model, agencies providing child care share the cost of administrative functions, such as payroll, procurement of food and supplies, human resources, and bookkeeping, to minimize overhead costs and improve efficiency. Shared services arrangements are often administered by an intermediary organization, such as a community-based non-profit or professional association. The CCDBG reauthorization identifies shared services as one strategy for developing public-private partnerships.

Training in this area should promote a broad range of good business practices. For example, the preamble to the regulations cites paid sick leave for child care providers as an example of a good business practice. It is recommended as a strategy for keeping child care programs healthy, by making it feasible for a staff member to take time off from work when sick, rather than coming to work and spreading her illness to the children in care and other staff members. Other positive business practices include paid family leave and reasonable scheduling practices.

ADDITIONAL RESOURCES

Quality Initiatives

- NWLC and CLASP, *A Count for Quality: Child Care Center Directors on Rating and Improvement Systems*, <http://www.nwlc.org/sites/default/files/pdfs/ACountforQualityQRISReport.pdf>.
- National Association for the Education of Young Children (NAEYC), *Developmentally Appropriate Practice in Early Childhood Programs Serving Children from Birth through Age 8*, <http://www.naeyc.org/files/naeyc/file/positions/PSDAP.pdf>.
- QRIS National Learning Network, Build Initiative, <http://www.buildinitiative.org/>.
- Early Learning Ventures and the David and Laura Merage Foundation, *Shared Services: A New Business Model to Support Scale and Sustainability in Early Care and Education*, http://www.earlychildhoodfinance.org/downloads/2009/SharedServicesELVreport_2009.pdf.

Improving Care for Infants and Toddlers

- CLASP, *Charting Progress for Babies in Child Care: Research, Policy Recommendations and State Examples*, <http://www.clasp.org/babiesinchildcare>.
- CLASP, *Better for Babies: A Study of State Infant and Toddler Child Care Policies*, <http://www.clasp.org/docs/BetterforBabies2.pdf>.
- ZERO TO THREE, *Infants and Toddlers in the Policy Picture*, <https://www.zerotothree.org/resources/359-infants-and-toddlers-in-the-policy-picture-a-self-assessment-toolkit-for-states>.
- ZERO TO THREE, *Supporting Babies Through QRIS: Inclusion of Infant and Toddler Quality Standards*, <https://www.zerotothree.org/resources/190-supporting-babies-through-qr-is-inclusion-of-infant-and-toddler-quality-standards>.

Early Learning and Development Guidelines

- ZERO TO THREE, *Early Learning Guidelines for Infants and Toddlers: Recommendations for States*, https://www.del.wa.gov/sites/default/files/imported/publications/development/docs/ZerotoThree_guidelines.pdf.
- NAEYC and National Association of Early Childhood Specialists in State Departments of Education, *Where We Stand on Early Learning Standards*, <http://www.naeyc.org/files/naeyc/file/positions/earlyLearningStandards.pdf>.

Professional Development

- U.S. Department of Health and Human Services, *Policy Statement on Early Childhood Career Pathways*, https://www.acf.hhs.gov/sites/default/files/ecd/career_pathways_policy_final.pdf.
- Early Educator Central, <https://earlyeducatorcentral.acf.hhs.gov/>.
- Career Pathways Resources, <http://www.clasp.org/issues/postsecondary/wioa-game-plan>.
- T.E.A.C.H. Early Childhood® National Center, <http://teachechnationalcenter.org/>.
- Child Care Services, Child Care WAGE\$® Project—North Carolina, <http://www.childcareservices.org/wagesapps/index.php>.
- Center for the Study of Child Care Employment, *Using the Early Childhood Workforce Index to Inform State Advocacy, Policy, and Action: Strategies for State Leaders*, <http://cscce.berkeley.edu/strategies-for-state-leaders/>.

- 1 See generally National Research Council, *Early Childhood Assessment: Why, What, and How?*, Committee on Developmental Outcomes and Assessments for Young Children, Board on Children, Youth and Families, Board on Testing and Assessment, Division of Behavioral and Social Sciences and Education, 2008, <https://www.nap.edu/catalog/12446/early-childhood-assessment-why-what-and-how>.
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- 3 Stephanie Schmit and Hannah Matthews, *Better for Babies: A Study of State Infant and Toddler Child Care Policies*, CLASP, 2013, <http://www.clasp.org/docs/BetterforBabies2.pdf>.
- 4 Child Care Aware of America, *Parents and the High Cost of Child Care: 2016*, 2016, <http://usa.childcareaware.org/advocacy-public-policy/resources/costofcare>.
- 5 See, e.g., Child Care Aware of America, *Parents and the High Cost of Child Care: 2016*; National Association of Child Care Resource and Referral Agencies, *Child Care in Thirteen Economically Disadvantaged Communities*, 2006, <http://www.researchconnections.org/childcare/resources/11661>; Helen Raikes, Brian Wilcox, Carla Peterson, et al., *Child Care Quality and Workforce Characteristics in Four Midwestern States*, The Gallup Organization, 2003, http://ccfl.unl.edu/projects_outreach/projects/current/ecp/pdf/final_11-25-03.pdf; Mary Carpenter, Mary Martin and Sue Russell, *Who's Caring for Our Babies Now? Revisiting the 2005 Profile of Early Care and Education for Children Birth to Three in North Carolina*, Child Care Services Association, 2008, http://www.childcareservices.org/_downloads/research/IT_State%20report_08.pdf; California Child Care Resource and Referral Network, 2013 *California Child Care Portfolio*, 2013, http://www.rrnetwork.org/2013_portfolio.
- 6 Hannah Matthews and Rachel Schumacher, *Ensuring Quality Care for Low-Income Babies Contracting Directly with Providers to Expand and Improve Infant and Toddler Care*, CLASP, 2008, <http://www.clasp.org/resources-and-publications/files/0422.pdf>.
- 7 U.S. Department of Health and Human Services, Administration for Children and Families, *Justification of Estimates for Appropriations Committees*, 2015, https://www.acf.hhs.gov/sites/default/files/olab/2016_acf_cj_final_for_print_1_28_upted.pdf.
- 8 Schmit and Matthews, *Better for Babies*.
- 9 Schmit and Matthews, *Better for Babies*.
- 10 Hannah Matthews, *Meeting the Early Learning Challenge: Supporting English Language Learners*, CLASP, 2011, <http://www.clasp.org/resources-and-publications/files/ellsandelc.pdf>.
- 11 National Research Council, *Early Childhood Assessment* (358-59, 425). The National Research Council defines high-stakes assessments as "[t]ests or assessment processes for which the results lead to significant sanctions or rewards for children, their teachers, administrators, schools, programs, or school systems" and urges "even more extreme caution" when using assessments of children from birth to age five for accountability.
- 12 Institute of Medicine and National Research Council, *The Early Childhood Care and Education Workforce*, 2012, http://www.nap.edu/download.php?record_id=13238#.
- 13 Tackling An Early Childhood Workforce Study: Important Considerations, is an example of a guide for conducting a workforce study. http://teachecnationalcenter.org/wp-content/uploads/2014/10/FactSheet_WorkforceStudies.pdf.
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- 15 U.S. Department of Health and Human Services, *Policy Statement on ECE Career Pathways*, https://www.acf.hhs.gov/sites/default/files/ece/career_pathways_policy_final.pdf.
- 16 Evelyn Ganzglass, *Scaling "Stackable Credentials"*, CLASP, 2014, <http://www.clasp.org/resources-and-publications/files/2014-03-21-Stackable-Credentials-Paper-FINAL.pdf>.
- 17 Hannah Matthews, "Support a Diverse and Culturally Competent Workforce," *Charting Progress for Babies in Child Care Project*, CLASP, 2008, <http://www.clasp.org/babiesinchildcare/recommendations/nurturing-and-responsive-providers/support-a-diverse-and-culturally-competent-workforce>.
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Family-Friendly Policies

The CCDBG reauthorization includes important subsidy policy changes designed to reduce burdens for families trying to get and keep child care assistance. By minimizing reporting requirements and complexity that can result in families unduly losing their assistance, these improvements will help families have the stable, continuous child care that parents need to succeed on the job and that children need for their healthy development. These improvements can also facilitate partnerships between child care and other programs such as Early Head Start, Head Start, or prekindergarten that increase low-income families' access to high-quality early learning opportunities. In addition to the benefits for children and families, more streamlined subsidy policies can allow public agencies to operate more efficiently and effectively and better ensure program integrity.

In this Chapter:

- Supply and Quality of Care for Targeted Populations, Parental Choice, and Priority Populations
- Eligibility Determination, Redetermination, and Protection of Working Parents
- Family Copayment Policies

SUPPLY AND QUALITY OF CARE FOR TARGETED POPULATIONS, PARENTAL CHOICE, AND PRIORITY POPULATIONS

Key Provisions in the Law and Regulations Strategies to Improve Supply and Quality of Care for Targeted Populations

- State plans must identify shortages in the supply of high-quality child care providers.
- States must describe in their state plans how they will implement strategies to increase the supply

and improve the quality of child care for infants and toddlers, children in underserved geographic areas, children with disabilities, children who receive care during non-traditional hours, children in poor communities, and children experiencing homelessness.

- States must describe in their state plans how they will coordinate the provision of child care services with other federal, state, and local programs—including programs serving Native American children, infants and toddlers, children with disabilities, children experiencing homelessness, and children in foster care—to expand access to care, continuity of care, and full-day care.
- State strategies may include alternative payment rates to child care providers; direct contracts or grants to community-based organizations; certificates to parents; combining funds; or other means determined by the state.
- States must describe in their plans how they will use investments to increase access to high-quality child care and prioritize those investments for children in areas with significant concentrations of poverty and unemployment and a lack of high-quality child care programs.

Parental Choice

- Parents must have a choice of enrolling their child in child care with a provider who has a grant or direct contract for providing child care services or receiving a child care certificate or voucher to use with a provider of their choice.
- The CCDBG Act clarifies that CCDBG law should not be considered to favor the use of grants or contracts over the use of child care certificates.

Priority Populations

- States must give priority for services to children in low-income families, children with special needs, and children who are experiencing homelessness.
- States must allow for grace periods after an initial eligibility determination for children experiencing homelessness and children in foster care to allow time to comply with immunization and other health and safety requirements. States are also required to coordinate with licensing agencies and other relevant agencies to help families experiencing homelessness and foster children comply with such requirements.
- States must conduct outreach to families experiencing homelessness and provide training and technical assistance to child care providers on identifying and serving children and families experiencing homelessness.

Implementation Considerations Strategies to Increase the Supply and Quality of Child Care for Targeted Populations

The CCDBG Act and its regulations focus on improving access to high-quality care for those populations for whom access is most challenging. For instance, high-quality child care for infants and toddlers and children with disabilities is in short supply because it requires a highly prepared workforce, better provider-to-child ratios, small group size, special equipment, and additional space. These components involve additional costs that parents may not be able to support without help.

The supply of certain types of care may also be limited due to a lack of a sufficient concentration of children in a particular area to support a program that offers that specialized care, difficulties in finding and keeping qualified staff with specialized skills, or high operational or transportation costs. License-exempt providers can play an important role in filling the unmet need for some particular types of care that are otherwise in short supply, such as care in rural or economically

disadvantaged communities or during non-traditional hours. But these providers may be as isolated as the families whose children they serve and may require support to provide high-quality care.

The final rule encourages states to analyze data from market rate surveys, alternative methodologies, child care resource and referral agencies, and other community needs assessments—such as Head Start needs assessments—as well as look at all categories of care from center-based to family child care in order to appropriately determine supply shortages.

States can address supply shortages by targeting funds to support providers serving infants and toddlers, children with disabilities, children in underserved geographic areas, and children who receive care during non-traditional hours; offering incentives to encourage more providers to serve these populations; and supporting organizations that have experience in offering training and technical assistance to help providers serve these populations.

Direct Contracts. While CCDBG has always required states to offer parents a choice of care through direct contracts, grants, or certificates, most CCDBG-funded care (89 percent) is paid for through certificates or vouchers.¹ If designed well and funded adequately, direct contracts for child care offer opportunities to build capacity or improve the quality of care for targeted populations, including infants and toddlers and children with disabilities. As part of the contract, states can require that child care providers meet higher quality standards beyond basic licensing requirements. Contracts can be used to create or stabilize care in particular communities or for specific populations (such as teen parents or families experiencing homelessness); create child care slots meeting quality standards, above minimum child care licensing standards; expand the availability of comprehensive services through

partnerships with Head Start or Early Head Start, or by providing additional resources to contracted providers to meet the costs of providing comprehensive services; extend the day or year of Head Start, Early Head Start, or state prekindergarten programs; or improve the quality of family child care by awarding contracts through supportive family child care systems and increasing quality standards for participating family child care homes.²

Massachusetts, Illinois, and New York City have all used contracts with family child care networks or systems to serve infants and toddlers in the subsidy system; funds go directly to the network, and the network facilitates payments to individual providers caring for the children. Family child care networks provide administrative, professional development, and quality improvement support to individual family child care providers. Networks vary in size and operate as free-standing agencies or as programs of larger agencies serving children, some of which also serve children with subsidies in center-based child care.³ States can consider using quality funds to support those networks.

Direct contracts have the potential to offer more stable revenue to providers, who are then able to make investments in better-qualified teachers, supplies, materials, and other resources they may not have been able to afford. Contracts guarantee payment for a specific number of children, may guarantee payments over several years, and may be paid prospectively, which provides even more stability for a child care provider. However, it is critical that contracts are sufficiently funded; if states do not provide enough to meet the higher costs of a contract's requirements, it undermines the purpose of the contract.

Tiered Payment Rates. To further incentivize the expansion high-quality child care capacity for particular populations, states may provide tiered payment rates or other financial incentives to those providers offering care for specific populations,

during non-traditional hours, or in underserved geographic areas. As of 2016, 38 states have child care assistance systems that provide higher payment rates to child care providers that meet specific quality requirements. Yet even at the highest quality tiers, most states still do not have rates that reach the federally recommended 75th percentile of the market, limiting options for high-quality care for families with subsidies. As of 2016, more than three-quarters (30) of states offering tiered payment rates did not reach the 75th percentile of the market rate at their highest payment level.⁴

Grants and Other Supports. States may consider start-up grants or equipment grants to centers, family child care homes, and license-exempt caregivers in underserved areas to improve quality. Providers who cannot afford basic materials and equipment have difficulty creating environments that support children's positive development.

Supports for Non-Traditional-Hour Care. Many parents work nonstandard hours (during evenings, nights, or weekends) and/or have irregular, unpredictable schedules. In one study, roughly half of low-wage hourly workers reported working nonstandard schedules.⁵ Yet there is an inadequate supply of licensed care during evenings and weekends, and significant barriers to expanding the supply. For many parents working non-traditional hours, license-exempt care is the option that best meets their needs, and in many cases the only option. Given increased requirements for caregivers in the law, including training and background checks that must be completed prior to caring for children unsupervised, it is essential that states find ways to meet families' needs for non-traditional-hour care and do not reduce options for families. Home-based providers, including those who are licensed and license-exempt, will need support to meet new requirements. States can address these barriers with a range of strategies, which may include higher payment rates for providers during those

hours or direct contracts to support extended-hour care. States can also support family, friend, and neighbor (FFN) caregivers, who are often the providers of care during nonstandard hours. In the past, states such as California and Minnesota have offered targeted funding to organizations working with FFN providers. It is important to provide support that recognizes the wide variety of FFN providers and to design programs that meet their varied circumstances.

The CCDBG Act includes a number of other provisions related to increasing the supply and quality of care, particularly for certain target populations, outlined in the Quality Improvement section of this guide.

Parental Choice

Parental choice has always been a core value of CCDBG. While states make efforts to increase the number of children in high-quality child care, it is important that parental choice be retained. The final rule clarifies that parental choice provisions do not prohibit a state from requiring providers receiving subsidies to meet quality standards, such as particular levels of a quality rating and improvement system (QRIS), or incentivizing parents to select high-quality child care. For example, states have adopted copayment systems that reduce copayments for children in higher-quality care. Yet parents may not be able to take advantage of financial incentives for using high-quality care if such care is not conveniently located in their neighborhoods or near their place of employment or does not accommodate their work schedules. Therefore, even as states encourage the use of high-quality care, they should not preclude families from using those child care options that best meet their needs.

Priority Populations

The reauthorization maintained the requirement for states to prioritize services for children of families with very low income and children with special needs, while adding prioritization for children experiencing homelessness. The former categories

are defined by states and—in accordance with the final rule—the definition for the latter category is consistent with that used for the [McKinney-Vento Homeless Education Assistance Act](#), which also applies to Head Start and Department of Education programs. States may also choose to prioritize additional populations and can decide what strategies to use to prioritize care. In addition to prioritizing enrollment for these populations, states may pay higher rates to support higher-quality care for certain populations, waive copayments for poor families, or use grants and contracts to reserve slots for priority populations.

The reauthorization law and regulations require states to recognize the distinct challenges facing homeless families by permitting children in homeless families to enroll in the child care assistance program prior to having complete documentation, and establishing a grace period to allow families to receive services while they take steps to comply with immunization and other health and safety requirements. States can look to current outreach and training efforts in place through Head Start and schools to identify opportunities for coordination and leveraging existing efforts and collaborate with other community partners, such as shelters and other homeless service providers, to most effectively implement these provisions.⁶

Under CCDBG law, states may choose to expedite enrollment, use presumptive eligibility, or establish grace periods for other populations as the state desires. The state should also establish policies to ensure that payments made during that time are not considered improper payments if eligibility is not approved. The rule includes clarifying language that care provided during the required grace period for children experiencing homelessness should not be considered an improper payment. This type of strategy prevents administrative procedures from hindering access to care, so parents can quickly begin work while their children receive the care they need—and providers are assured of receiving payment.

ELIGIBILITY DETERMINATION, REDETERMINATION, AND PROTECTION OF WORKING PARENTS

Key Provisions in the Law and Regulations

The CCDBG Act of 2014 includes several provisions that simplify eligibility policies to improve access and stability for families.

- Once a child has been determined eligible for child care assistance, states must consider the child eligible for a minimum of 12 months regardless of temporary changes in a parent's work, education or training activities, or family income, as long as income does not exceed 85 percent of state median income (SMI), based on the most recent SMI data.
- The rule defined “temporary changes” to include: 1) any time-limited absence from work; 2) any interruption in work for a seasonal worker; 3) any student holiday or break for student parents; 4) any reduction in work, training, or education hours; and 5) any cessation of work or attendance at a training or education program that does not exceed a minimum of three months.
- States may not terminate child care assistance based on parental job loss or cessation of education and training unless they continue assistance at least at the same level for a period of at least three months to provide time for job search.
- During the 12-month eligibility period, states may only require families to report information that affects their eligibility during the 12-month period and may only act on other changes that benefit the family.
- States must describe how their redetermination procedures and policies do not require working parents, and in particular parents receiving Temporary Assistance for Needy Families (TANF) assistance, to disrupt employment in order to comply.
- States must demonstrate how they take into account irregular fluctuations in parents' earnings when determining and redetermining eligibility.

- At redetermination, states must have policies in place to continue child care assistance at the beginning of the new eligibility period for parents who are working or attending job training or education but whose income exceeds the state's qualifying income eligibility and is below 85 percent of SMI. The rule clarifies that states with initial income eligibility set under 85 percent of SMI must have two-tier income eligibility. States can set the upper tier at 85 percent of SMI, or a lower level.
- The final rule requires states to take into consideration children's development and learning and promote continuity of care when authorizing child care services.
- The final rule allows states to expand the protective services eligibility category to include other vulnerable populations.

Implementation Considerations

To effectively implement the above changes to the eligibility and redetermination processes and make subsidy policies work better for families, states will need to take a number of steps, including: assessing the administrative bottlenecks, duplicative paperwork, and other requirements that may impede families' access to assistance; considering improved processes, technological solutions, and other strategies to address these barriers; and providing guidance and training to ensure consistent implementation of changes throughout the system, including at the local level and among individual caseworkers. These efforts should encompass all stages of the child care subsidy program—including application, eligibility determination, approval for assistance, interim reporting requirements, and redetermination—even if a particular stage is not explicitly addressed in the reauthorization, given that the stages are interrelated.

While these subsidy policy changes are good for children and parents and reduce administrative costs, they do entail additional costs for services,

since the changes enable families to retain child care assistance for longer periods. States will need increased resources to ensure that these changes do not result in more children being placed on waiting lists for assistance or certain groups of children being denied assistance. With additional resources, states will be able to manage their caseloads not by depending on families to lose their assistance after only a few months—which has negative consequences for children's well-being and parents' employment—but by designing their programs in a way that truly works for families.

Annual Eligibility

Prior to this reauthorization, states had the discretion to set their maximum eligibility period for child care assistance (the period during which families can remain eligible without recertifying) and were roughly evenly divided between having six-month and 12-month eligibility periods. Even so, families commonly experienced much shorter periods of assistance, and a modest increase in earnings or a brief period of unemployment could cause a family to lose child care assistance, resulting in a large increase in the family's child care costs. A study of administrative data across 35 states found that families used child care subsidies for relatively short time periods in most states, usually less than a year. In 31 states, the median length of subsidy receipt was between four and eight months. The same study showed that families frequently returned to the subsidy programs after exiting.⁷ A study of child care subsidy receipt in Maryland found that, despite the state policy of allowing up to a 12-month eligibility period, only 35 percent of children were given eligibility periods of more than 48 weeks. In practice, clients were assigned shorter eligibility periods based on short-term training programs, temporary jobs, and other factors subject to caseworker discretion.⁸

Now, under the updated CCDBG law, all children determined eligible for child care assistance must be considered eligible for a *minimum* of 12 months, regardless of temporary changes in parental

employment, participation in education or training, or income, as long as household income remains below 85 percent of SMI. Research suggests that longer authorizations reduce the risk of losing benefits, supporting stable parental employment and continuity of care for the child.⁹ Annual eligibility also provides more stable revenue for child care providers accepting child care subsidies, as they will have more predictable and reliable payments for services.

Annual eligibility has benefits for states and administering agencies as well. State and local agencies do not have to spend resources on frequent redeterminations for families whose circumstances have not changed and can better align their child care assistance programs with other programs in which CCDBG-eligible families commonly participate, including Medicaid and the Supplemental Nutrition Assistance Program (SNAP) as well as Head Start, Early Head Start, and state prekindergarten. States will want to examine existing eligibility policies, as well as how they differ for families with different circumstances, such as those participating in education or training and those qualifying for child care under TANF, to ensure that 12-month eligibility is implemented in accordance with the reauthorization law.¹⁰

The final rule codifies that additional state-imposed eligibility criteria, beyond those included in the federal law, must only apply at the time of initial eligibility determination and at annual redeterminations. If states have minimum work hour requirements, child support enforcement cooperation requirements, or other additional eligibility criteria, families may not lose subsidies during the eligibility period for not meeting those criteria.

The rule also makes clear that in county-administered states, a child must retain eligibility for subsidy even if they move to a different county within the state. In implementing this provision, states will have to determine which county covers

the costs of continued eligibility and how policy differences across counties will be handled.

The rule identifies a few circumstances in which a family's assistance can be terminated, including: the family moves out of state, the child has excessive unexplained absences despite attempts to contact the family, or there is a substantiated fraud or intentional program violation that invalidates prior determinations of eligibility. States also have, under a separate provision, the option to terminate assistance in the case of permanent job loss. If they take that policy option, however, they must provide that parent with three months of child care eligibility for job search (see below).

With additional resources, states will be able to manage their caseloads not by depending on families to lose their assistance after only a few months—which has negative consequences for children's well-being and parents' employment—but by designing their programs in a way that truly works for families.

Actualizing *continuous* 12-month eligibility depends on strong policies as well as caseworker training to understand this policy requirement and how it relates to all families and their employment or education and training circumstances. States will need to assess the actual eligibility periods granted to families under this policy to better understand and address situations in which families do not receive child care subsidies for their full 12-month eligibility period. States should also consider interim reporting requirements (discussed below) and how they may impede goals of continuous eligibility.

Despite the challenges of growing waiting lists and increased costs, enabling those families accessing care to take advantage of continuous 12-month eligibility is important for parents' economic stability and success and children's stable relationships with caregivers. Short-changing the 12-month eligibility provision would significantly undermine the goals of the law to support parents' employment and children's healthy development.

Interim Reporting

In between redeterminations, subsidy agencies commonly require parents to report changes in their circumstances that may affect their eligibility for (or the level of) benefits. The rule requires states to limit reporting requirements to only those changes that would affect their eligibility: 1. If the family's income exceeds 85 percent of SMI; or 2. If the family experiences a non-temporary loss of work, training, or education (for states choosing to end assistance in those circumstances) and information that affects a state's ability to communicate with parents or providers (such as a change of address). If a state chooses to require reporting for non-temporary changes in circumstances during the eligibility period, the state plan must describe how the state will ensure that these reporting requirements will not place a burden on eligible families or lead to terminating assistance prior to the end of the eligibility term (unless the family's income exceeded 85 percent of SMI or the parent had a non-temporary job loss or cessation of education or training). States also must not require in-person visits to report changes and must offer a range of options for notifying agencies of changes (such as phone and email options, and/or offering services during nonstandard business hours.)

Families must be given the option to report changes that are to their benefit; for example, if a family is working additional hours and needs additional hours of care, or if a family experiences a loss of earnings that warrants a reduction in copayment in accordance with the sliding fee scale.

Assistance in the Event of Job Loss

The CCDBG legislation gives states the option of terminating assistance after a parent's permanent job loss or cessation of education or training, once the family has received a minimum of three months of continued assistance at the same level for job search. Employing this option is not a requirement, and the regulations clarify that the default policy is for the state to allow families to retain their eligibility until the next redetermination, despite the job loss. There is also no limit to the number of times a family can receive continued assistance for a job search. Further, the rule codifies that the level of assistance may not be reduced during the period of job loss, as this would undermine the intent of providing stability to the family.

Should the state choose to employ this option of terminating assistance after a minimum of three months of job search, the rule clarifies that the state is not required to apply this policy uniformly but may allow some populations, such as priority populations, to remain eligible for the remainder of the 12-month period, despite a parent's job loss or cessation of education program. This reinforces continuity for children most in need of consistent care settings and for families who may have the most difficulty in the labor force.

The regulations also clarify that if, by the end of the period of continued assistance, the parent is re-engaged in work, education, or training, child care assistance should not be terminated. The state has the option at this time to continue assistance until the next scheduled redetermination point, or consider the family redetermined eligible for an additional minimum 12-month period. The latter would minimize the burden on the families, alleviating stress on the parents and promoting continuity of care for the children.

As states decide whether or how to employ this option, they should think of the dual-generation purpose of CCDBG. The vast majority of low-income families work, even if they experience

periods of disruption in employment.¹¹ During periods of instability—such as job loss—children may be even more dependent on the stability of a trusted child care provider while their household is experiencing upheaval. Parents, too, may need more than three months to secure employment, or potentially decline an offer of employment if their ability to pay for child care is uncertain. According to the U.S. Department of Labor, approximately 41 percent of unemployed persons do not find work within 14 weeks of losing a job, which is slightly more than three months.¹²

Redetermination Process

Periodically proving eligibility is common across benefit programs and can be important to ensure that individuals do not continue to receive benefits for which they are no longer eligible. However, how states implement eligibility redetermination, what they require of parents, and how often, are central to whether eligible clients are able to keep benefits easily. Overly burdensome redetermination requirements and processes not only cause eligible families to lose assistance, but also create significant administrative costs when families cycle off and on the program because of procedural problems (also known as “churn”).

To ease this burden, the law states that compliance with the redetermination process must not force parents to disrupt employment. In the final rule, the U.S. Department of Health and Human Services Administration for Children and Families (ACF) suggests that states evaluate their processes and procedures for redetermination in order to reduce duplicative requirements across programs, as well as provide training and guidance to case workers and other child care staff to ensure that these new policies are implemented correctly. To improve their redetermination process for families, states can take several specific steps that increase accessibility, simplify and streamline the process, and increase coordination between child care and other work support programs:

Increased Accessibility. States can make the redetermination process (as well as the initial eligibility determination process) more accessible and less disruptive for families by offering processes electronically or via telephone, not requiring in-person visits, and/or offering services during nonstandard business hours. States can also create new procedures to inform families and child care providers of upcoming redeterminations ahead of time, and remind them what the family is required to do in order to be redetermined eligible.

Simplification and Streamlining. States can seek first to verify information from existing data sources and only ask parents to produce documentation as a last resort. States should also only ask for documentation that has changed or is strictly needed to determine eligibility, and not re-collect information that was already collected, such as birth certificates and identification cards. Maryland's child care subsidy program, for example, instructs case managers not to request verification from families that is available and current in other systems. In Medicaid, states rely on information available through electronic databases and only ask for information they do not already have access to electronically.¹³ And both Medicaid and SNAP consider elements that do not change, such as date of birth and Social Security numbers, to be "permanent" verifications that do not need to be re-verified. In CCDBG, some states ask parents for the same information every time the family's eligibility is assessed, regardless of whether it is likely to have changed—but a better strategy, which states are increasingly using, is to prepopulate renewal or interim change reporting forms with any information that states already have and ask the family to note where information has changed.

Coordination Across Work Support Programs. Families receiving multiple public benefits—such as child care, SNAP, or Medicaid/CHIP—have the cumulative burden of redetermining eligibility for all programs. Families may undergo multiple, frequent redetermination processes owing to each system's distinct requirements. Systems often

require families to provide the same information to multiple offices or caseworkers, creating unnecessary burden and confusion. Coordinating recertification across benefit programs can help eligible families retain benefits and help states reduce administrative burden and undue burden on parents. Should states choose to employ more coordinated procedures across work support programs, the final rule clarifies that the family should not lose child care assistance before the end of the 12-month eligibility period, even if the redetermination process for another work support program reveals a change in the family's circumstances (unless the family's income increases above 85 percent of SMI or the family experiences a non-temporary loss of work, training, or education program and the state chooses to end assistance).

Income Eligibility

Initial Income Eligibility. Under the reauthorization law, states can continue to set income eligibility limits for CCDBG-funded child care assistance at any level up to 85 percent of SMI. Once children are determined eligible, during the 12-month eligibility period, states are required to allow them to continue receiving assistance even if their income has increased above the state income eligibility limit as long as it remains at or below 85 percent of SMI—unless there is a non-temporary change in the parent's work, education, or training activity. It is essential that states set adequate initial income eligibility limits, so families are able to qualify for the child care assistance they need. As of February 2016, a family with an income above 150 percent of poverty could not qualify for assistance in 17 states, and a family with an income above 200 percent of poverty could not qualify for assistance in a total of 39 states—even though a study by the Economic Policy Institute indicates that a family needs an income equal to at least 200 percent of poverty to meet its basic needs.¹⁴ Even without a separate exit eligibility limit, appropriately set initial income eligibility limits that take into account the cost of basic needs allow room for families' incomes to grow without them immediately losing assistance.

Irregular Fluctuations in Earnings. States must design their eligibility and redetermination policies to consider irregular fluctuations in parents' earnings. Such policies ensure that if families work overtime hours or additional hours at specific times of the year due to the seasonal nature of their work, they will not risk losing their child care assistance nor will they experience an increase in family copayments. States retain flexibility in setting their policies for income calculation and verification; however, language in the final rule provides some examples of how to implement this properly. Many states already employ these approaches—for instance: states may take an average of families' earnings over a longer period of time (i.e. 12 months); request earning statements that are most representative of the family's income; or simply deduct temporary increases in wages from the families' standard income level.¹⁵

Graduated Phase-Out of Assistance. States that have set income eligibility below 85 percent of SMI are required to establish a graduated phase-out of assistance for families as their earnings increase. If at redetermination after 12 months, a child's household income is above the state's initial income eligibility threshold (but below 85 percent of SMI) and the child is otherwise eligible for assistance, the state must continue assistance for a graduated phase-out period. According to the final rule, states will be able to comply with this requirement by establishing an income eligibility threshold at redetermination that is higher than that for initial eligibility (commonly known as tiered-income eligibility). If establishing a tiered income eligibility system, states can set the higher eligibility level as high as 85 percent of SMI (the federal cap), or at a level below 85 percent of SMI that takes into account the typical household budget for a low-income family, and is sufficiently set to accommodate increases in family income. This policy can support families as their income rises so that exceeding the initial eligibility threshold—which may result from even a small increase in income—

does not result in losing benefits, and may help families better avoid the “cliff effect” (a sudden, drastic change in expenses following a loss of benefits). Children who are determined eligible through the graduated phase-out provision should receive a full eligibility period (a minimum of 12 months).

Considering Child Development and Continuity of Care

The regulations require states to consider children's development and learning and continuity of care when authorizing child care. The preamble to the regulations gives examples of how this provision may be implemented, which include designing child care services to include child development services, such as coordination with Head Start or state prekindergarten. States can use this provision as an opportunity to help families connect with resources they need for their children, including nutrition, health, early intervention, and other assistance and services.

FAMILY COPAYMENT POLICIES

Key Provisions in the Law and Regulations

- The reauthorization law maintains existing language on sliding fee scales and the existing definition of sliding fee scales as a system of cost sharing by a family based on the family's income. The law adds language stating that cost sharing must not be a barrier to families' receiving child care assistance.
- The regulations revise the federal benchmark for affordable parent fees from the previous 10 percent to a more sustainable seven percent of family income.
- States are allowed to waive copayments for families living below the poverty level and for children who receive protective services or other priority categories established by the state.
- States can only increase copayments at redeterminations or during graduated phase-out periods for families with incomes above the initial income eligibility level. States

may decrease copayments during the eligibility period if a change warrants.

Implementation Considerations

The language in the law was a clear signal to states that they should not set copayment levels so high that they will discourage families from applying for or continuing to receive child care assistance. This policy may be particularly important to monitor within the context of reauthorization implementation and the costs entailed—costs that states may be tempted to pass on to providers and families, which would exacerbate barriers to access.

With the final rule, states should reexamine their copayment policies to determine whether the cost burden is manageable for families receiving child care assistance. Even at current levels, many states' copayments are far too high. For example, more than half (26) of the states require families with incomes at 150 percent of poverty and receiving child care assistance to pay a higher portion of their income in copayments than the nationwide average amount that families who pay for child care spend on child care (7.2 percent of income),¹⁶ the new federal benchmark for affordability. States should consider lowering their copayments for all families and waiving fees for families with incomes below the poverty level or other priority populations.

ADDITIONAL RESOURCES

Child Care Subsidy Policies and Simplification

- NWLC, *Red Light, Green Light: State Child Care Assistance Policies 2016*, <https://nwlc.org/wp-content/uploads/2016/10/NWLC-State-Child-Care-Assistance-Policies-2016-final.pdf>.
- CLASP and Urban Institute, *Confronting the Child Care Eligibility Maze: Simplifying and Aligning Child Care with Other Work Supports*, <http://www.clasp.org/resources-and-publications/publication-1/WSS-CC-Paper.pdf>.
- Urban Institute, *Designing Subsidy Systems to Meet the Needs of Families*, <http://www.urban.org/research/publication/designing-subsidy-systems-meet-needs-families>.

Special Populations

- CLASP, *Better for Babies: a Study of State Infant and Toddler Child Care Policies*, <http://www.clasp.org/resources-and-publications/files/BetterforBabies2.pdf>.
- CLASP, *Charting Progress for Babies in Child Care: Build Supply of Quality Care*, <http://www.clasp.org/babiesinchildcare/recommendations/their-families-to-have-access-to-quality-options-for-their-care/build-supply-of-quality-care>.
- U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care, *Policies/Resources for Expanding ECE Services for Homeless Children & Families*, <https://www.acf.hhs.gov/occ/resource/policies-resources-for-expanding-ece-services-for-homeless-children>.
- National Association for the Education of Homeless Children and Youth, <http://naehcy.org/sites/default/files/dl/CCDF%20Homelessness%20Guide%20final%20Oct%202015.pdf>.
- U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care, *Information Memorandum: Child Welfare and Child Care Partnerships*, “Child Welfare and Child Care Partnerships: Partnering with Families Involved in Child Care Subsidy Programs,” <http://www.acf.hhs.gov/programs/occ/resource/im-child-welfare>.
- U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care, *Information Memorandum: Refugee Resettlement and Child Care Partnerships*, “Refugee Resettlement and Child Care Partnerships: Partnering to Increase Refugee Families’ Access to High-Quality Child Care,” <http://www.acf.hhs.gov/programs/occ/resource/im-refugee-resettlement>.

Direct Contracts

- CLASP, *Ensuring Quality Care for Low-Income Babies: Contracting Directly with Providers to Expand and Improve Infant and Toddler Care*,

<http://www.clasp.org/resources-and-publications/files/O422.pdf>.

Nonstandard Hours and Low-Wage Work

- NWLC, *Set Up To Fail: When Low-Wage Work Jeopardizes Parents' and Children's Success*, <http://nwlc.org/resources/set-up-to-fail-when-low-wage-work-jeopardizes-parents-and-childrens-success/>.

- CLASP, *Scrambling for Stability: The Challenges of Job Schedule Volatility and Child Care*, <http://www.clasp.org/resources-and-publications/publication-1/2014-03-27-Scrambling-for-Stability-The-Challenges-of-Job-Schedule-Volat-.pdf>.
- NWLC, *Strategies for Supporting Family, Friend, and Neighbor Care Providers*, <http://nwlc.org/resources/strategies-for-supporting-family-friend-and-neighbor-care-providers/>.

- 1 U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care, *Child Care and Development Fund Statistics*, "Table 2 - Percent of Children Served by Payment Method," FY 2015 Preliminary Data, <http://www.acf.hhs.gov/occ/resource/fy-2015-preliminary-data-table-2>.
- 2 Hannah Matthews and Rachel Schumacher, *Ensuring Quality Care for Low Income Babies*, CLASP, 2008, <http://www.clasp.org/resources-and-publications/files/O422.pdf>.
- 3 CLASP, "Massachusetts: Family Child Care System Contracts," *Charting Progress for Babies in Child Care Project*, 2011, <http://www.clasp.org/babiesinchildcare/state/massachusetts-family-child-care-system-contracts>.
- 4 Karen Schulman and Helen Blank, *Red Light Green Light: State Child Care Assistance Policies 2016*, NWLC, 2016, <https://nwlc.org/wp-content/uploads/2016/10/NWLC-State-Child-Care-Assistance-Policies-2016-final.pdf>.
- 5 Liz Watson, Lauren Frohlich, and Elizabeth Johnston, *Collateral Damage: Scheduling Challenges for Workers in Low-Wage Jobs and Their Consequences*, NWLC, 2014, http://www.nwlc.org/sites/default/files/pdfs/collateral_damage_scheduling_fact_sheet.pdf.
- 6 Carie Bires, Carmen Garcia, and Julia Zhu, *Supporting Children and Families Experiencing Homelessness: CCDF State Guide*, NAEHCY, The Ounce, 2015, <http://naehcy.org/sites/default/files/dl/CCDF%20Homelessness%20Guide%20final%20Oct%202015.pdf>.
- 7 Kendall Swenson, *Child Care Subsidy Duration and Caseload Dynamics: A Multi-State Examination*, U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, 2014, http://aspe.hhs.gov/hsp/14/ChildCare-Subsidy/rpt_ChildCareSubsidy.pdf.
- 8 Elizabeth E. Davis, Caroline Krafft, Nicole Forry, et al., *Implementation of 12-Month Child Care Subsidy Eligibility Redetermination: A Case Study from Maryland*, Child Trends, 2014, http://www.childtrends.org/wp-content/uploads/2015/02/2014-56MDChildCare-Assistance_Brief.pdf.
- 9 For research on child care authorization periods, see Charles Michalopoulos, Erika Lundquist, and Nina Castells, *The Effects of Child Care Subsidies for Moderate-Income Families in Cook County, Illinois*, Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services, 2010, http://www.acf.hhs.gov/sites/default/files/opre/cook_county.pdf. For a summary of research on various strategies, including lengthened redetermination periods, in SNAP and Medicaid, see Gina Adams and Jessica Compton, *Client-Friendly Strategies: What Can CCDF Learn from Research on Other Systems?*, Urban Institute, 2011, <https://www.acf.hhs.gov/opre/resource/client-friendly-strategies-what-can-ccdf-learn-from-research-on-other>.
- 10 Administration for Children and Families, *2014 Child Care Reauthorization and Opportunities for TANF and CCDF*, https://www.acf.hhs.gov/sites/default/files/ofa/tanf_acf_im_2016_02_2014_child_care_reauthorization_and_opportunities.pdf.
- 11 Brandon Roberts, Deborah Povich and Mark Mather, *Low-Income Working Families: The Growing Economic Gap*, Working Poor Families Project, http://www.workingpoorfamilies.org/wp-content/uploads/2013/01/Winter-2012_2013-WPFP-Data-Brief.pdf.
- 12 U.S. Department of Labor, Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey, 2015*, <http://www.bls.gov/cps/cpsaat30.htm>.
- 13 Under the Affordable Care Act (ACA), an individual must not be required to provide additional information or documentation unless information cannot be obtained electronically or such information obtained is not reasonably compatible, Alice M. Weiss, Abigail Arons, and Julien Nagarajan, *States' Medicaid ACA Checklist for 2014*, State Health Reform Assistance Network, 2013, <http://staterenetwork.org/wp-content/uploads/2014/11/State-Network-NASHP-States-ACA-Medicaid-Checklist-for-2014.pdf>.
- 14 Schulman and Blank, *Red Light Green Light*. National Women's Law Center analysis of data from Elise Gould, Tanyell Cooke, and Will Kimball, *What Families Need to Get By: EPI's 2015 Family Budget Calculator* (Washington, DC: Economic Policy Institute, 2015), <http://www.epi.org/publication/what-families-need-to-get-by-epis-2015-family-budget-calculator/>; and from Sylvia Allegretto, *Basic Family Budgets: Working Families' Incomes Often Fail to Meet Living Expenses Around the U.S.* (Washington, DC: Economic Policy Institute, 2005), <http://www.epi.org/page/-/old/briefingpapers/165/bp165.pdf>.
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Provider Payment Rates, Policies, and Practices

Recognizing that the success of state child care assistance programs relies on a robust and diverse population of high-quality child care providers, the CCDBG law and regulations encourage an improved financial and business relationship between state lead agencies and individual child care providers in the subsidy system. Specifically, the law and regulations target more regular and reliable assessment of provider payment rates, policies, and practices. In reviewing their child care assistance systems, states should look at their provider payment policies and practices with an eye toward building the supply of high-quality child care, strengthening the fiscal stability of providers in the subsidy system, and maintaining the diversity of child care options for families by ensuring that policies and practices are equitable across provider types.

Key Provisions in the Law and Regulations Rate Setting

As under the previous legislation, the reauthorization law requires states to demonstrate that their payment rates for child care providers serving families receiving child care assistance ensure equal access to child care services comparable to those provided to other families. The regulations clarify that, to meet this standard, states must set base payment rates at least at a level sufficient for child care providers to meet health, safety, quality, and staffing requirements included in the law and regulations and take into consideration the cost of providing higher-quality child care services.

The final rule requires states, in their plans, to demonstrate that they are meeting this equal access requirement by providing a summary of data and facts that show:

- How a choice of the full range of providers is made available, the extent to which child care providers participate in the child care assistance program, and any barriers to providers' participation.
- How base payment rates enable providers to meet health, safety, quality, and staffing requirements included in the law and regulations.
- How payment rates for higher-quality care, as determined using a quality rating and improvement system or other system of quality indicators, relate to the estimated cost of care at each level of quality.
- A rationale for the state's decision on whether to allow providers to charge (beyond the required parent copayment) the difference between the state payment rate and the provider's regular private rate, whether state payment rates are sufficient to provide access to child care without the additional fees, and the extent to which providers charge such additional fees, if allowed.
- How and on what factors the state differentiates payment rates.

In addition, the preamble to the final rule maintains the 75th percentile of market rates as a benchmark for assessing whether states' payment rates adequately ensure equal access.

The reauthorization law and regulations specify that, to meet the requirements regarding payment rates, states must develop and conduct a

statistically valid and reliable survey of market rates for child care that reflects variations in the cost of child care services by geographic area, type of provider, and age of child, or use an alternative methodology, such as a cost estimation model. The law requires that the market rate survey or alternative methodology must be developed by the state's Lead Agency in consultation with the State Advisory Council on Early Childhood Education and Care (or similar coordinating body), local program administrators, resource and referral agencies, and other appropriate entities, and the regulations require that organizations representing child care caregivers, teachers, and directors must be consulted as well.

According to the law, each state must:

- Develop and conduct the market rate survey or alternative methodology every three years, within two years of submitting the state plan in which the study is referenced. The regulations specify that the alternative methodology (if used as a replacement, not a supplement, for the market rate survey) must be approved in advance by the Administration for Children and Families (ACF).
- Report on the results of the market rate survey or alternative methodology and make the results widely available (including by posting it on the internet). The regulations require states to release the report within 30 days of completion. In addition to providing the results of the market rate survey or alternative methodology and the estimated cost required to meet the equal access requirements, the report must include the state's response to stakeholder views and comments.
- Describe how it will set provider payment rates across provider types in accordance with the market rate survey or alternative methodology, and taking into consideration the cost of providing higher-quality child care services, without, to the extent practicable, reducing the number of families receiving child care assistance. The regulations specify that state payment rates must be set based on the most recent market rate survey or alternative methodology.

According to the regulations, each state's market rate survey/alternative methodology must track data on:

- Variations in child care costs by geographic location, category of provider, and age of child.
- The extent to which child care providers are participating in the child care assistance program and any barriers to participation, including barriers related to payment rates and practices.
- The frequency with which child care providers charge families more than the required copayment in instances where the provider's fee for private-paying parents exceeds the state payment rate, and the amount providers charge in such cases.

The reauthorization law and regulations also clarify that states are not barred from differentiating payment rates based on a provider's geographic location; a child's age or particular needs (such as the needs of children with disabilities, children served by child protective services, and children experiencing homelessness); whether a provider offers care during non-traditional hours; and a provider's quality level. However, the regulations prohibit states from differentiating payment rates based on a family's eligibility status, such as qualifying based on receipt of Temporary Assistance for Needy Families (TANF).

Payment Practices

Under the law, states must certify that payment practices for providers receiving CCDBG assistance reflect generally accepted payment practices for child care providers in their state or service area that serve children who do not receive CCDBG assistance. The regulations require that states describe in their state plans how their payment practices allow for stable funding for providers and encourage child care providers to serve children receiving CCDBG assistance.

The law also requires that, to the extent practicable, states must implement enrollment and eligibility

policies that support the fixed costs of providing child care services by delinking provider payment rates from an eligible child's occasional absences due to holidays or unforeseen circumstances (such as illness). The regulations indicate that states can meet this requirement by: paying based on a child's enrollment rather than attendance; providing full payment if a child attends at least 85 percent of the authorized time; providing full payment if a child is absent for five or fewer days in a month; or an alternative approach that the state justifies in its plan.

States must also describe how they will provide for timely payment for services. The regulations specify that states can meet this requirement by paying prospectively prior to the delivery of services, or by paying within no more than 21 calendar days of the receipt of a complete invoice for services.

In addition, the regulations require states to take several other steps to align their payment practices for child care providers serving families receiving child care assistance with payment practices for those providers serving families that do not receive assistance. States must, for families receiving CCDBG assistance:

- Pay on a part-time or full-time basis rather than paying for hours of service or smaller increments of time (unless the state provides evidence that the practice of paying on a part- or full-time basis is not generally accepted in the state or service area).
- Pay for reasonable mandatory registration fees that the provider charges to private-paying parents (unless the state provides evidence that such practices are not generally accepted in the state or service area).
- Ensure child care providers receive payment for any services in accordance with a written payment agreement or authorization for services that includes, at a minimum, information regarding provider payment policies, including rates, schedules, any fees charged to providers, and the dispute resolution process.
- Ensure child care providers receive prompt notice of changes to a family's eligibility status that may affect payment, and that the notice is sent to providers no later than the day the state becomes aware that the change will occur.
- Include timely appeal and resolution processes for any payment inaccuracies and disputes.

Implementation Considerations

Rate Setting

These provisions address an issue that is essential to families' access to high-quality child care: payment rates for providers. The reauthorization provides an opportunity for all states to look closely at their rates to determine how they can improve them to increase families' access to high-quality options, one of the primary goals of this legislation. Rates are fundamental in determining whether providers have the resources they need to support high-quality care—resources for salaries sufficient to attract and retain qualified staff, for equipment and materials to create a good learning environment, and for other expenses. Low rates can make it particularly difficult for providers in low-income communities that have limited resources to support high-quality care. Rates also have a major impact on high-quality providers' willingness to serve low-income families and their children, so setting rates at more appropriate levels can increase the capacity and variety of programs available to families.¹ Yet, currently, state rates are far too low. In 2016, only three states set their payment rates at the federally recommended level, the 75th percentile of current market rates, which is the level designed to give families access to 75 percent of the providers in their community.² The remaining states had rates that were below the recommended level—in many cases, substantially below this level. For example, in February 2016, 31 states had payment rates for center care for a four-year-old that were at least 20 percent below the 75th percentile of current market rates.³

It is essential for states to regularly update their rates—the preamble to the regulations recommends that states consider annual rate increases—to keep pace with the rising cost of providing care and remain competitive with rates in the private market.

The reauthorization legislation makes a few specific changes to policies for setting payment rates. Previously, states were required to conduct market rate surveys every two years; the reauthorization only requires a market rate survey once every three years in line with the change in the state plan period from two to three years. However, states should not interpret this change to mean that they only need to increase their payment rates once every three years. It is essential for states to regularly update their rates—the preamble to the regulations recommends that states consider annual rate increases—to keep pace with the rising cost of providing care and remain competitive with rates in the private market.

The legislation permits states to set provider payment rates using a methodology other than a market rate survey. Cost modeling is one alternative approach being used in some states and referenced in the legislation. Rather than surveying the prices charged for child care, cost modeling estimates the cost of providing care at varying levels of quality based on the resources a provider needs to remain financially solvent. States that plan to use an alternative methodology as a replacement for the market rate survey must receive advance approval; in the preamble to the regulations, ACF indicated that it planned to provide non-regulatory guidance regarding the process for proposing an alternative methodology, including criteria and a timeline for approval.

If states choose to adopt a different approach, it is important to proceed cautiously. States using an alternative method should examine how the results produced by this method compare to results from prior market surveys, with adjustments for inflation. By using the previous market rate survey as a benchmark, states can ensure that the alternative method does not result in a reduction in payment rates. The preamble to the regulations indicates that any alternative methodology or market rate survey that results in stagnant or reduced payment rates will result in increased scrutiny by ACF in its review, and that the state will have to explain how this result improves access to higher-quality child care.

Regardless of whether states use a market rate survey or an alternative method, states are required by the regulations to use the data they collect and analyze to set payment rates. States should also make certain that base rates are set at a level that will ensure all providers have the resources and incentives to provide healthy, safe care to all children receiving child care assistance. To ensure adequate base rates, states should determine the cost of every element involved in providing healthy and safe care. These elements include provider-to-child ratios and group sizes that meet state requirements, qualified providers who have completed required training, safe facilities that comply with licensing rules, outdoor play spaces, learning materials such as books and toys, and other components critical to children's health, safety, and development. In determining the base payment rates necessary to support healthy, safe care, states should consider not only the first-order costs entailed in doing so, but the secondary costs as well. For example, states should account for not only the fees that providers must pay for training, but the costs for substitutes to cover for providers while they are attending the training.

In addition to costing out healthy, safe care, states should analyze the findings from their market rate survey on the extent to which providers are participating in the child care assistance program

and the frequency with which child care providers charge families the difference between the provider's private-pay rate and the state rate to assess whether their base rates are too low to incentivize providers to offer care to families receiving child care assistance or leave these families to cover a large portion of the costs. States should then adjust their rates accordingly so that enough providers participate to offer families sufficient child care options and so that the rates cover a provider's entire private-pay rate.

A commitment to regular payment rate increases to reflect regular increases in the costs of providing care is important. Sufficient resources will be needed to ensure that states, as directed by the law, are able to increase rates without compromising the number of children served.

Setting Differential Rates

The reauthorization law specifies that states may differentiate rates based on various characteristics of care. Most states already differentiate payment rates based on certain factors, such as the provider's location, the child's age, or the quality of care—for example, states often have higher rates for care for providers in high-cost areas, younger children, higher-quality care, and/or providers offering care during evenings, overnight, and weekends. These higher rates may reflect higher market prices for a particular type of care, the need to pay higher rates as an incentive to offer care that is in particularly short supply, or the additional costs of providing a certain type of care. For example, rates for infant care are typically higher because care for very young children—who need extensive individualized attention—entails better provider-to-child ratios than care for older children (according to early childhood experts' recommendations and most states' licensing requirements), and as a result is more expensive to provide. Higher rates for higher-quality care are also important to encourage providers to improve their quality and to cover the additional costs involved in doing so—including costs to hire and retain

credentialed teachers, buy new toys, books, and other learning materials, and upgrade facilities.

While differentiating rates can serve important purposes, it is essential first for states to set adequate base rates. If base rates are low, a small differential—or even a large one—will still leave providers without the resources they need to offer a high-quality early learning experience for the children in their care and without an incentive to serve families receiving assistance. For example, while 38 states had higher payment rates for higher-quality providers in 2016, many of them had such inadequate base rates that, in more than three-quarters of these states, even the higher rates were still below the federally recommended level.⁴

Sufficient resources will be needed to ensure that states, as directed by the law, are able to increase rates without compromising the number of children served.

Payment Practices

Under current policy in most states, provider payment practices for subsidized care look very different from generally accepted payment practices for private-paying parents who typically pay their provider a set fee based on their child's enrollment, often a month in advance of when services are provided. In the subsidy system, however, there is often a significant lag between when care is provided and when a provider is paid, and payments are often tied very closely to the exact days, or hours, a child attends child care. As a result, gaps in attendance—which can occur frequently or for an extended period due, for example, to a child's illness—often leave providers with gaps in revenue, making it difficult for them to meet the fixed costs (rent, utilities, salaries) of running a business.

Strictly linking provider payments in the child care assistance program to a child's attendance therefore has negative consequences for providers, who must absorb the income loss associated with absences. And it has negative effects for families receiving child care assistance—especially families with infants (who tend to get sick often as their immune systems develop) or children with chronic illnesses that cause them to have regular absences—as providers may be reluctant to serve them if the providers will not be paid for absent days. Restrictive payment policies may also create a disincentive for child care providers to accept children whose parents have volatile work schedules, as the child's attendance and subsequent payment may be unpredictable. By revising their payment policies, states can incentivize providers to enroll families receiving child care assistance—which, in turn, can improve the stability of child care arrangements for families receiving assistance, benefiting the child's development and the parent's ability to work.

States should take full advantage of the opportunity presented by the reauthorization to explore ways to make their payment practices align more closely with generally accepted payment practices in the private market. The strategies outlined in the regulations as required or recommended for achieving this goal—paying providers based on enrollment (rather than

attendance), paying for absent days, covering registration fees charged to private-paying parents, preparing providers for changes to subsidy payments, and making timely payments—all benefit providers who need stable income to maintain their businesses and families who need reliable care to ensure the well-being of their children.

ADDITIONAL RESOURCES

- U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care, *QRIS Cost Estimation Model and Resource Guide*, <https://childcareta.acf.hhs.gov/story/qriscost-estimation-model-and-resource-guide>.
- U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care, *Provider Cost of Quality Calculator*, <https://www.ecequalitycalculator.com/Login.aspx?ReturnUrl=%2f>.
- Urban Institute, *Child Care Voucher Programs: Provider Experiences in Five Counties*, <http://www.urban.org/research/publication/child-care-voucher-programs-provider-experiences-five-counties>.
- NWLC, *Red Light Green Light: State Child Care Assistance Policies 2016*, <https://nwlc.org/wp-content/uploads/2016/10/NWLC-State-Child-Care-Assistance-Policies-2016-final.pdf>.

1 Gina Adams, Kathleen Snyder, and Kathryn Tout, *Essential but Often Ignored: Child Care Providers in the Subsidy System*, Urban Institute, 2003, <http://www.urban.org/research/publication/essential-often-ignored>.

2 Karen Schulman and Helen Blank, *Red Light Green Light: State Child Care Assistance Policies 2016*, NWLC, 2016, <https://nwlc.org/wp-content/uploads/2016/10/NWLC-State-Child-Care-Assistance-Policies-2016-final.pdf> (9, 15-16). Oregon set its reimbursement rates at the 75th percentile of current market rates as of February 2016. In addition, West Virginia increased its reimbursement rates to the 75th percentile of current market rates in March 2016, and South Dakota increased its reimbursement rates to the 75th percentile of current market rates in June 2016.

3 Schulman and Blank, *Red Light Green Light* (10).

4 Schulman and Blank, *Red Light Green Light* (10).

Conclusion

States have critical choices to make about priorities and resources as they move forward with CCDBG implementation. Keeping children's healthy development and families' economic security at the center of each policy decision can help advance the promises of CCDBG reauthorization—continuity and stability for families; improved health and safety for children; and supported, high-quality providers and programs—even in the face of challenging times and limited resources. As outlined in this guide, advocates, policymakers, administrators, and others are all important stakeholders in safeguarding and carrying out the vision of a stronger CCDBG that better supports children and families.



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