



*U.S. Department of Health & Human Services*

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# Child Care and Development Fund (CCDF) Notice of Proposed Rulemaking

May 2013



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## Child Care and Development Fund (CCDF)

- CCDF is a \$5 billion block grant program that provides funding to States, Territories, and Tribes.
- Primary Federal funding source devoted to providing access to child care services and improving quality of child care.
- Twin goals:
  - Promote self-sufficiency by making child care more affordable for low-income parents.
  - Foster healthy child development and school success by improving the quality of child care.



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## Notice of Proposed Rulemaking (NPRM)

- Reforms to strengthen accountability and better serve children and families in the CCDF program.
- Part of *President's Plan for Early Education for All Americans*.
- Incorporates what we know from research on early brain development, and evidence showing the role early childhood programs can play in supporting children's learning.
- Reflects Office of Child Care's ongoing dialogue with CCDF grantees and knowledge of best practices across the country.
- Same vision for reform reflected in re-design of CCDF Plan.



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## About the NPRM

- NPRM is available on Federal Register website at:  
<https://federalregister.gov/a/2013-11673>
- 75-day comment period; submit comments at:  
[http://www.regulations.gov/#!documentDetail;D=HHS\\_FRDOC\\_0001-0496](http://www.regulations.gov/#!documentDetail;D=HHS_FRDOC_0001-0496)
- Comprehensive package of reforms – this presentation only highlights significant proposed changes.
- User-friendly, “tracked changes” version of CCDF regulations under proposed rule available on Office of Child Care website:  
<http://www.acf.hhs.gov/programs/occ/child-care-rule>
- All provisions applicable to Tribal CCDF grantees unless otherwise noted.



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## NPRM Process: How it Will Work

- ACF will consider and respond to public comments as part of development of a Final Rule.
- Provisions included in a Final Rule would become effective 30 days from the date of publication of the Final Rule.
- ACF expects provisions included in a Final Rule would be incorporated into review of FY 2016-2017 CCDF Plans that would become effective October 1, 2015.
- ACF welcomes public comment on specific provisions included in the NPRM that may warrant a longer phase-in period (e.g., requires action of State legislature or rulemaking).



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## NPRM - Four Priority Areas

- Improving health and safety in child care
- Establishing family-friendly policies
- Improving the quality of child care
- Strengthening program integrity



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## NPRM Changes: Health and Safety

States would be required to ensure child care providers serving CCDF children meet the following: (45 CFR 98.41(a))

(Defining “building and physical premises safety” ...)

- Compliance with State and local fire, health, and building codes, including the capacity to evacuate children;
- Comprehensive criminal background checks, including fingerprints; and
- Emergency preparedness planning.

*NOTE: States already may exempt relatives from health and safety, monitoring provisions. The NPRM would also allow States to exempt in-home caregivers (in the child’s home).*



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## Health and Safety (cont...)

States would be required to ensure child care providers serving CCDF children meet the following:

(Defining “minimum health and safety training” ...)

- Pre-service/orientation training in:

First Aid & CPR

Medication administration

Poison prevention

Safe sleep practices/SIDS illness

Shaken baby syndrome

Nutrition and physical activity

Child development

Preventing spread of infectious disease

Recognition of child abuse and neglect

Emergency preparedness and response

Management of common childhood

Transportation and child passenger safety

Caring for children with special needs



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## NPRM Changes: Monitoring

States would be required to establish the following monitoring procedures for providers serving CCDF children:

- Unannounced, on-site monitoring for compliance with health and safety requirements;
- May not solely rely on self-certification by providers without documentation or other verification that requirements have been met.

[45 CFR 98.41(d)]



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## Monitoring (cont...)

- Conduct unannounced visits in response to complaints;
  - NPRM also would require Lead Agencies to establish a hotline for parental complaints. (45 CFR 98.32)
- Require providers serving CCDF children to report serious injuries or deaths of children occurring in child care.
  - NPRM also would require Lead Agencies to conduct an annual assessment of all serious injuries and deaths in child care. (45 CFR 98.16(v)); (Tribes-exempt)



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## Health and Safety (seeking comment...)

The NPRM specifically requests comment in the following areas:

- Whether fire, health and building code compliance should be determined prior to serving CCDF children.
- Whether background checks should be required of other personnel in centers or adults in family child care homes.
- Appropriate phase-in period for providers already serving CCDF children to meet health and safety requirements.
- Whether there should be a minimum number of hours required for pre-service and ongoing hours of training.
- Recommendation that providers should receive initial monitoring visit and at least 1 unannounced visit annually.



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## NPRM Changes: Family-Friendly Policies

The NPRM would require States to implement family-friendly policies to promote employment stability for parents and continuity of care for children.

- Establishing 12-month eligibility (seeking comment).
- At option of Lead Agency, allowing child to remain eligible until the next re-determination.
- Allowing for some period of job search for families receiving CCDF that lose employment.
- Describe requirements for families to report changes in circumstances in the CCDF Plan.

(45 CFR 98.20)



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## Family-Friendly Policies (cont...)

The NPRM would increase State flexibility to:

- Establish criteria for waiving family co-pays (no longer limited to only families under 100% FPL). (45 CFR 98.42)
- Broadly define “Protective Services” eligibility category to include vulnerable populations, such as homeless and migrant families (not limited to children involved in the child welfare system). (45 CFR 98.20)
  - Removes limitation that determination must be made – *in consultation with a protective services worker.*



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## Child Development & Subsidy Policy

- Changes would require States to consider the **developmental needs of the child** when authorizing child care services.
  - States may authorize hours to facilitate wrap-around with Head Start or extend hours to support child's enrollment in high quality care.
  - States are not restricted to limiting authorized child care services based on the work, training or educational schedule of the parents.

(45 CFR 98.20(d))



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## NPRM Changes: Improving Quality

- Encourage, but not require, States to establish a framework for organizing and measuring quality activities.
  1. Activities to ensure health and safety
  2. Establishment of early learning guidelines
  3. Implementation of quality improvement systems
  4. Implementation of professional development systems
  5. Implementation of infrastructure of support
  6. Assessment and evaluation of quality activities
- Require States to submit annual Quality Performance Report.  
(Tribes-exempt)

(45 CFR 98.51)



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## NPRM Changes: Improving Quality (cont...)

- *Payment rates*: The proposed rule would require States to take into account the quality of child care when setting payment rates. (45 CFR 98.43)
  - Market Rate Survey → Market Price Study
  - Allow approval to use alternate methodology.
  - Seeking comment on innovative rate setting approaches to ensure payment rates provide access to high quality care.
- *Use of grants or contracts*: The proposed rule would require States to use grants or contracts for direct services linked to the supply of high quality care. (45 CFR 98.50)
  - NPRM continues to require use of vouchers



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## NPRM Changes: Consumer Education

The proposed changes would require States to establish:

- Website with provider-specific information about health & safety, licensing requirements, date of last inspection, licensing violations and compliance actions taken.
  - Include description of State regulatory requirements for child care providers and processes for background checks.
  - Tribes-exempt from website requirement
- Consumer statement for parents receiving CCDF.

(45 CFR 98.33)



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# NPRM Changes: System of Quality Indicators

- Proposed changes would require States to establish a transparent system of quality indicators, which must include:
  - Provider-specific info. about quality of care;
  - Standards used to assess the quality of child care providers;
  - Teaching staff qualifications and/or competencies, learning environment, and curricula and activities; and,
  - Disseminating provider-specific quality information to the public.
- States have flexibility to decide which providers to include in the quality indicators system.
- Recommend, but not mandating, a quality rating improvement system be used to implement the requirement.



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# NPRM Changes: Consumer Education (seeking comment)

The NPRM specifically requests comment in the following areas:

- Seeking feedback on what elements should be included on a consumer education website, and the categories we specified as part of a transparent system of quality indicators.
- State, Territory, Tribe experiences collecting and sharing provider information, including what types of information from background checks are shared with parents seeking care.



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## NPRM Changes: Program Integrity

- States would be required to have processes for monitoring program implementation responsibilities undertaken by sub-grantees; written agreements . (45 CFR 98.16)
- New proposed section *45 CFR 98.68 – Program Integrity* – would require State procedures for:
  - Internal controls, risk management; Identifying fraud; Documenting and verifying eligibility; and Investigating and recovering fraudulent payments.
- Proposed increase in technical assistance set-aside to ½ of 1%. (45 CFR 98.60)
- Error rate reviews – States with high improper payment rates must submit corrective action plans. (45 CFR 98.102)



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## NPRM Changes: Tribal Provisions

- Tribes must ensure that children receiving CCDF are age appropriately immunized. (Previously this requirement only applied to States & Territories).
- All Tribes (exempt and non-exempt) must spend at least 4% on quality.
- Smaller Tribes continue to be exempt from operating a certificate program. ACF intends to raise the threshold for exempt Tribes from \$500,000 to \$700,000.
- ACF intends to increase the base amount of funding from \$20,000 to \$30,000.
- ACF Tribal Consultation (July 2013)



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## Providing Public Comment

- Submit comments to the Office of Child Care, 370 L'Enfant Promenade, SW., Washington, DC 20024, Attention: Cheryl Vincent, Office of Child Care, or electronically via the internet at [http://www.regulations.gov/#!documentDetail;D=HHS\\_FRDOC\\_0001-0496](http://www.regulations.gov/#!documentDetail;D=HHS_FRDOC_0001-0496).
- Include your name and address, identify the docket number for this rulemaking (ACF-2013-0001), indicate the specific section of this document to which each comment applies, and give the reason for each comment
- A copy of this Notice of Proposed Rulemaking may be downloaded from <https://federalregister.gov/a/2013-11673>



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## Further Outreach on the NPRM

- We are planning additional webinars and listening sessions in the next few weeks that will cover the NPRM in more detail.
- We plan to do more Tribal-specific outreach on the proposed changes at the ACF Tribal Consultation, July 9-10.
- NPRM information and resources available on Office of Child Care website:

<https://www.acf.hhs.gov/programs/occ/child-care-rule>