

2015 CCDF NOTICE OF PROPOSED RULEMAKING (NPRM)

PUBLIC COMMENT PROCEDURES & SPECIFIC REQUESTS FOR COMMENT

Reporting Instructions: All submissions received must include the agency name and docket number or RIN number for this rulemaking. To ensure we can effectively respond to your comment(s), clearly identify the issue(s) on which you are commenting. Provide the page number, identify the column, and cite the relevant paragraph/section from the Federal Register document, (e.g., On page 10999, second column, § 98.20(a)(1)(i).).

All comments received are a part of the public record and will be posted for public viewing on www.regulations.gov, without change. That means all personal identifying information (such as name or address) will be publicly accessible. Please do not submit confidential information, or otherwise sensitive or protected information. We accept anonymous comments. If you wish to remain anonymous, enter “N/A” in the required fields.

Where to submit: You may submit comments, identified by docket number ACF-2015-0011 and/or RIN number 0970-AC67, by either of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Submit comments to the Office of Child Care, Administration for Children and Families, 330 C Street SW, Washington, DC 20201, Attention: Office of Child Care Policy Division.

ACF invites comment on the entire proposed rule, but is specifically inviting comments in several areas:

Section	Topic	Public Comment Requests
Effective Dates	Timeline for NPRM compliance	We invite comment on specific provisions in the NPRM that may warrant a longer phase-in period. (p. 80473, column 1)
§ 98.19	Waiver Requests	We invite comment on ways to ensure efficient and timely relief, when appropriate, for States, Territories, and Tribes impacted by extraordinary circumstances, such as natural disasters. Specifically, feedback about making the application process for waivers for extraordinary circumstances straightforward with minimal obstacles. (p. 80483, column 1)
§ 98.20	State Median Income	We are inviting comment on whether ACF should provide additional guidance and specificity on the State Median Income (SMI) used to determine eligibility (e.g. whether States should use the SMI with a single year estimate, a two-year average, or a three-year average (which is used by the Low Income Home Energy Assistance Program (LIHEAP)). (p. 80483, column 2)

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§ 98.21	Eligibility for Services	<p>We invite comment on:</p> <ul style="list-style-type: none"> Any additional circumstances other than the limited number discussed in the NPRM under which a Lead Agency should be allowed to end a child’s assistance (after providing at least three months of continued assistance) prior to the end of the minimum 12-month period. (p. 80486, column 2) Anticipated impacts of the proposed graduated phaseout provision, including suggestions for possible alternative approaches to consider that would also promote continuity of care for children and family financial stability. (p. 80487, column 1)
§ 98.21	Reporting Changes in Circumstances	<p>We invite comments on:</p> <ul style="list-style-type: none"> Whether States should have the option for 6-month interim reporting forms (p. 80488, column 2), and <ul style="list-style-type: none"> If such reports are allowed, the best way to structure them so as to promote continuity of services for the minimum 12-month eligibility period for eligible families, consistent with the law. (p. 80488, column 2) Whether States should be able to adjust co-payments or otherwise act on verified information (e.g., updated income information) received from other programs or sources (p. 80488, column 2), and <ul style="list-style-type: none"> Whether the benefits of acting on information received pursuant to eligibility determinations or recertifications in other programs outweigh the impact of any co-payment increases, if allowed, during the minimum 12-month period, and whether those benefits would be a reason to allow Lead Agencies to act on verified information from other programs. (p. 80488, column 2)
§ 98.32	Consumer education websites	<p>We invite comment on:</p> <ul style="list-style-type: none"> Database and website requirements for Lead Agencies to facilitate linkages to the national website. (p. 80493, column 1) Proposed 90 day benchmark for updating inspection results on the website in a timely manner after an inspection or corrective action. (We are not proposing to define timely in the regulatory language.) (p. 80494, column 1) Best practices for ensuring accurate data related to child injuries, deaths and child abuse incidents is collected and posted on the consumer education website. (p. 80494, column 3) Whether provider-specific information on occurrences of child abuse and neglect should be included and suggestions for ensuring the information does not violate privacy rules. (p. 80494, column 3)

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§ 98.42	Monitoring and Inspections	<p>We invite comment on:</p> <ul style="list-style-type: none"> • The new requirement that any licensed provider that did not previously receive a pre-licensure inspection must be inspected prior to caring for a child receiving CCDF. We invite comment on whether there should be a specified time period for the inspection (<i>i.e.</i> within the previous 12 months). (p. 80501, column 2) • The proposal to allow Lead Agencies the option to develop alternate monitoring requirements for care provided in the child’s home. (p. 80503, column 1) • Whether the final rule should include a requirement for Lead Agencies to conduct unannounced inspections in response to complaints and whether this requirement should apply to providers receiving CCDF funds or additional providers. (p. 80491, column 3 and p. 80502, column 1) • ACF concerns regarding not requiring inspections for licensed non-CCDF providers and suggestions for ensuring equal access to child care for CCDF families. (p. 80501, column 3)
§ 98.43	Criminal Background Checks	<p>We invite comment on:</p> <ul style="list-style-type: none"> • Anticipated impacts of requiring background checks for child care staff members of all licensed, regulated, and registered child care providers and all child care providers eligible to deliver CCDF services (other than an individual who is related to all children for whom child care services are provided). (p. 80504, column 2) • We are asking for comment on whether additional individuals in the family child care home should be subject to the background check requirements. (p. 80504, column 2) • The feasibility of a search of the National Crime Information Center (NCIC) as proposed and the level of burden required by Lead Agencies. (p. 80505, column 1) • How States will meet the cross-State check requirement and respond to other State requests, specifically the cross-State checks of the child abuse and neglect registries. (p. 80505, column 3) • Whether background check systems for foster or adoptive parents could be used to support cross-State background checks for prospective child care staff members as well. (p. 80506, column 1)
§ 98.45	Equal Access	<p>We invite comment on:</p> <ul style="list-style-type: none"> • How to best assess the comparability of child care quality between that accessed by families receiving CCDF and that available to families above 85 percent of SMI, including parameters and requirements for any data collection. (p. 80514, column 2) • A possible benchmark or metric for measuring the adequacy of rates set by alternative methodologies, as comparable to the 75th percentile. (p. 80514, column 2)

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		<ul style="list-style-type: none"> • The impact of prohibiting providers from charging families above the copay on parents and providers, including whether ACF should provide a phase-in period for implementation. (p. 80516, column 1) • Whether the proposed benchmarks for provider payment practices or other benchmarks should be included in a final rule. (p. 80516, column 2) • Alternatives to the three identified examples of approaches that States may want to use for absence day policies. (p. 80517, column 1)
Subpart I	Tribal Provisions	<p>We invite comments on:</p> <ul style="list-style-type: none"> • The Tribal CCDF Discretionary set-aside (but note that we do not intend to include the specific amount in the regulatory language in order to allow for adjustments over time). (p. 80529, column 1) • Whether the <i>Caring for Our Children (CfOC) Basics</i> should replace the old HHS minimum standards as the new health and safety guidelines for Tribes. (p. 80530, column 1) • Proposal to require Tribes to meet minimum quality spending requirements, in particular as it relates to Tribes that receive small allocations. (p. 80530, column 2) • Whether 85 percent of State median income (SMI) is an appropriate threshold for allowing Tribes to consider children categorically eligible for CCDF based on Tribal median income. (p. 80531, column 1) • Tribe’s ability to obtain FBI fingerprint checks. (p. 80534, column 1)
Regulatory Impact Analysis		<p>We welcome comment on all aspects of the analysis. Specifically, we invite comment on:</p> <ul style="list-style-type: none"> • The anticipated financial impact of the CCDBG Act and this proposed rule on Territories and Tribes. (p. 80541, column 1) • The extent to which Lead Agencies anticipate applying new requirements to relative providers. (p. 80542, column 2) • Specific costs associated with moving from announced to unannounced inspections. (p. 80543, column 1) • The percentage of providers who would require an inspection or a follow-up visit as a result of new annual monitoring visits. (p. 80543, column 2) • Assumptions about the amount of time required to prepare for and comply with the monitoring requirement. (p. 80543, column 3 and p. 80544, column 2) • The cost of meeting the NCIC background check requirement. (p. 80545, column 1)

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		<ul style="list-style-type: none"> • Additional costs associated with background checks such as costs due to a greater numbers of job applicants (e.g. if a hiring search must be extended if an otherwise top candidate is determined unsuitable to work with children). (p. 80547, column 3) • Whether Lead Agencies expect an increase in subsidy payment rates. (p. 80551, column 1) • How Lead Agencies may choose to implement these different payment policies and practices. (p. 80551, column 2) • How provider payment policies and other policies may impact the subsidy rate in each State/Territory. (p. 80552, column 1) • Additional information about State/Territory practice and costs associated with the proposed policies. (p. 80552, column 2) • What provider payment rates may be necessary to support high quality child care. (p. 80552, column 2) • Ways to measure the benefit that the Act and the proposed rule will have on children, families, child care providers, and the public. (p. 80553, column 3)