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February 4, 2026

The Honorable Robert F. Kennedy Jr.
Secretary, United States Department of Health and Human Services
330 C St SW
Washington, DC, 20201

Federal Register Document Number: 2025-24272 / RIN 0970-AD20
Re: *Restoring Flexibility in the Child Care and Development Fund (CCDF)*

Dear Secretary Kennedy:

The Child Care and Development Fund (CCDF) is a crucial program supporting communities nationwide. Families depend on the viability of this program, and the stability it can offer to child care providers, whose programs they rely on for services, even if they are not voucher recipients. Rolling back the provisions included in the 2024 rule, as the current notice proposes, will only further destabilize an already vulnerable sector, leading to greater attrition among early educators, program closures, and loss of services to children and families. For these reasons, **we urge the Department of Health and Human Services to revoke the 2025 rule – *Restoring Flexibility in the Child Care and Development Fund (CCDF)* – reinstate the 2024 rule,** and maintain progress made toward:

1. Lowering families' costs by capping required copayments at seven percent of household income;
2. Strengthening payment practices through grants and contracts to ensure adequate access to scarce types of care;
3. Using prospective payment models to stabilize provider budgets, promote educator retention, and boost supply for limited types of care; and
4. Reducing provider burden through enrollment-based reimbursements that further help to stabilize their programs, improve implementation, and boost program integrity.

The remainder of this document provides additional details and relevant supporting literature. Thank you for your time and consideration.

Sincerely,

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Background

The 2024 rule[1] – *Improving Child Care Access, Affordability, and Stability in the Child Care and Development Fund* – was developed on the basis of extensive data, research, and feedback from both the early childhood education field and from parents, aiming to maximize program participation, boost parent choice of child care arrangements, and improve program integrity. Rolling back those provisions undermines the expertise of the early educator community, disregards the needs and preferences of families across the country, and weakens standards that ensure the CCDF program meets its statutory mandates and intended purpose.

1. **CAP promotes lowering families' costs by capping required copayments at seven percent of household income.**

Amid a significant and growing affordability crisis across the country, low-income and working families depend on programs like CCDF to be able to access much-needed high-quality care for their children in order to work, pursue job training, or go to school. The existing statute (§ 98.45(l)(3)) requires that the program institute limits on family co-payments such that they are not a barrier to families receiving assistance. And under the 2024 rule, the financial barrier was determined not to exceed 7 percent of income for all families, regardless of the number of children in care who may be receiving CCDF assistance. That 7 percent cap translates statutory intent into a measurable threshold that states can use to guide implementation (Section 658E(c)(5)), and provides a clear basis for affordability to ensure that families with low-incomes are able to participate in a program designed specifically for that population. Without a clear definition for what "barriers to access" means, states and territories are subject to programmatic and policy inconsistencies resulting in inequities in both affordability and access.

It is important to note that for low-income families, for whom CCDF is a vital lifeline to obtaining child care services, the cost of child care is a barrier to access at any copayment level.[2] Families with low incomes spend a much larger proportion of their income on care relative to higher earners, and single parent households can spend as much as a third of their household income on child care.[3] Between 2005 and 2021, CCDF co-payments rose faster than inflation – an average of 18 percent, even after adjusting for other factors affecting price.[4] The families that most need subsidies often cannot afford to participate in the subsidy system specifically because of this cost burden. Nearly 95 percent of families participating in CCDF earn below 150

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[1] Federal Register, "Improving Child Care Access, Affordability, and Stability in the Child Care and Development Fund (CCDF), April, 2024, https://www.federalregister.gov/documents/2024/03/01/2024-04139/improving-child-care-access-affordability-and-stability-in-the-child-care-and-development-fund-ccdf

[2] Gina Adams and Eleanor Pratt, "Assessing Child Care Subsidies through an Equity Lens: A Review of Policies and Practices in the Child Care and Development Fund," September 2021, https://www.urban.org/sites/default/files/publication/104777/assessing-child-care-subsidies-through-an-equity-lens.pdf

[3] Child Care Aware of America, "Annual Price of Care," May 2025, https://www.childcareaware.org/price-landscape24/#PriceofCare

[4] Department of Health and Human Services, "Improving Child Care Access, Affordability, and Stability in the Child Care and Development Fund (CCDF)," Math 2024, https://www.govinfo.gov/content/pkg/FR-2024-03-01/pdf/2024-04139.pdf

percent of the federal poverty level.[5] An estimated 40 percent of families receiving subsidies are not assessed a copayment, but a majority are, and many states still allow providers to institute additional fees – resources providers need in order to cover necessary program expenses, but a cost burden to families with low incomes nonetheless.[6]

Eliminating affordability parameters for families most in need of support undercuts the intended purpose of the law, and would result in significantly restricted access. Already, because of limited public investment, CCDF only reaches a fraction of the families who qualify for assistance – ranging from 7 percent of eligible families in Maryland and Nevada to just a quarter in Alabama.[7] Notably, this small fraction still represents thousands of families and their children who rely on the program – as many as 176,300 children in California, 62,300 children in Illinois, and 66,000 children in New York, to name a few.[8] The demand for the program, and the assistance it provides, particularly amid critically limited supply options, speaks to continued market fractures driving up the cost of care.

Based on the 2025-2027 State/Territory CCDF Plans,[9] 34 states and the District of Columbia already indicate that their maximum allowable copayment level is at or below 7 percent, while remaining states largely have temporary waivers in place until they can also implement a cap.[10] This widespread adoption indicates that state leaders and administrators recognize cost to be a significant barrier to child care access, and have been able to implement this requirement from the 2024 rule in a relatively short timeframe, without undue administrative, legislative, or financial burden.

Rolling back a cap on copayments also adversely impacts child care providers

Because the child care sector is a broken market, market forces alone cannot support adequate supply, particularly in under-resourced communities.[11] Providers in these communities simply cannot charge the fees needed to provide their services, which impacts the resources they have on hand to cover fixed costs, like the necessary expenses for personnel, rent and maintenance, insurance, and toys and other curricular materials. Rescinding a provision that helps offset the cost to families risks not only endangering family economic security, but also destabilizing providers who may have structured their programs around the cap on family copayments. Lifting

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[5] Office of Child Care, "Quick Fact," June 2025, https://acf.gov/occ/quick-fact
[6] Ibid.
[7] Center for American Progress, "Trump's Attack on Child Care Funding Undermines Early Educators, Shortchanges Children, and Increases Costs for Families," January 2026, https://www.americanprogress.org/article/trumps-attack-on-child-care-funding-undermines-early-educators-shortchanges-children-and-increases-costs-for-families/
[8] Center for American Progress, "Trump's Attack on Child Care Funding Undermines Early Educators, Shortchanges Children, and Increases Costs for Families."
[9] Office of Child Care, Administration for Children and Families, "FY 2025-2027 State/Territory CCDF Plans," June 2025, https://acf.gov/occ/form/approved-ccdf-plans-fy-2025-2027
[10] Child Care Aware of America, "A Snapshot of State Responses in Draft CCDF Plans," https://info.childcareaware.org/hubfs/SnapshotofStateCCDFPlanResponsesUpdated.pdf
[11] Gina Adams and Eleanor Pratt, "Assessing Child Care Subsidies through an Equity Lens," September 2021, https://www.urban.org/sites/default/files/publication/104777/assessing-child-care-subsidies-through-an-equity-lens.pdf

this restriction will introduce new cost burdens for families, and potentially risk the stability of programs which may lose families who can no longer afford their services.

Maintaining a clear affordability threshold, based on documented research and input from early educators and parents about practices that support child care access, is critical to supporting the work that state leaders have already conducted, and ensuring that the most vulnerable families can still retain care for their children. Based on FY 2022 data, the most recent available, this amounts to approximately 1.4 million children from more than 870,000 families, who receive assistance through CCDF.[12]

2. **CAP endorses policies that strengthen child care provider payment practices, stabilizing the sector, supporting educator retention, and fulfilling the requirements of the law.**

There is a widespread shortage of child care across the country, resulting from insufficient public investment and fueled by retention issues among qualified early educators. These supply issues are disproportionately felt in rural communities; for parents of infants, toddlers, and children with disabilities; and for those who work nontraditional hour schedules, such as shift work.[13] Based on 2018 data, the most recent available, more than half of Americans live in a child care desert, where there is inadequate supply to meet the demand for care.[14] The 2024 rule aimed to mitigate some of these shortages by providing direct service grants and contracts in underserved communities to ensure that these families can access the child care services that they need.

More recent research analyzing the gap between available child care services and the demand among working families for care has found that there is a gap of nearly 4.2 million slots.[15] There are nearly 15 million children across the country in need of care, but only 10.8 million available licensed child care slots – a 28 percent overall licensed supply gap. This gap is more pronounced in rural parts of the country, where residents face a 32 percent gap.[16] According to the study, five states – Alaska, Hawaii, Nevada, North Carolina, and Rhode Island – have a licensed child care gap among working families of greater than 50 percent, which means more than half of the families with children under the age of 5 lack access to a licensed child care slot when they need one. Importantly, this gap analysis was conducted specifically on families with

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[12] Office of Child Care, Administration for Children and Families, "FY 2022 Preliminary Data Table 1 - Average Monthly Adjusted Number of Families and Children Served," January 2025, https://acf.gov/occ/data/fy-2022-preliminary-data-table-1

[13] Center for American Progress, "Costly and Unavailable: America Lacks Sufficient Child Care Supply for Infants and Toddlers," August 2020, https://www.americanprogress.org/article/costly-unavailable-america-lacks-sufficient-child-care-supply-infants-toddlers/

[14] Center for American Progress, "Child Care Deserts," https://childcaredeserts.org/

[15] Buffett Early Childhood Institute, "New Interactive Map Reveals 4.2 Million Children Nationwide Lack Access to Child Care, Costing U.S. Economy up to $329 Billion," September 2025, https://buffettinstitute.nebraska.edu/news-and-events/news/2025/09/new-interactive-map-reveals-42-million-children-nationwide-lack-access-to-child-care

[16] Ibid.

children under age 5 and all parents working – meaning the gap is likely much more pronounced, since in many parts of the country, parents, particularly mothers,[17] may not be working specifically because they cannot access child care, and therefore were not included in this analysis.

These gaps in supply also remain more severe for families of children with disabilities, among whom more than one-third lack access to a licensed, high-quality child care slot, relative to one-quarter of families with nondisabled children.[18]

Grants and contracts are an effective tool for ensuring that there are slots available for these populations of families because they dedicate funding specifically to the supply, stability, and quality of slots that they need, both in center-based and home-based care settings, reducing provider uncertainty about whether they can provide services (42 U.S.C. 9858c(c)(2)(M)).[19] Grants and contracts that set higher reimbursement rates make providing a more costly type of care a viable option for programs, including infant and toddler care and services for children with disabilities. While vouchers can also be used to support parents' access to care by reducing overall financial burden, grants and contracts are a crucial component of promoting child care access by ensuring parents can actually enroll their child in their preferred type of care, in communities or among populations for whom supply options are typically limited.[20]

According to the 2025-2027 State/Territory CCDF Plans, 24 states and Washington DC indicate that they offer child care assistance through grants and contracts: Alabama, Arkansas, California, Colorado, Delaware, Florida, Iowa, Illinois, Indiana, Kansas, Louisiana, Massachusetts, Maryland, Missouri, North Carolina, New Jersey, Nevada, New York, Ohio, Oregon, Pennsylvania, South Dakota, Texas, and Utah. Of those states, 9 use grants and contracts to expand services for children with disabilities; 14 use grants and contracts to expand services for infants and toddlers; and 10 use grants and contracts to support access in underserved geographic areas.[21] Rescinding the provision supporting the use of grants and contracts undercuts the important progress states have made toward adopting their use, and expanding services for these vulnerable populations. It also risks exacerbating existing supply shortages for these families, expanding deserts and worsening the gap between the need among working families and available care options.

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[17] Center for American Progress, "The Child Care Crisis Is Keeping Women Out of the Workforce," March 2019, https://www.americanprogress.org/article/child-care-crisis-keeping-women-workforce/

[18] Cristina Novoa, "The Child Care Crisis Disproportionately Affects Children with Disabilities," Center for American Progress, January 2020, https://www.americanprogress.org/article/child-care-crisis-disproportionately-affects-children-disabilities/

[19] Office of Child Care, "Using Grants and Contracts to Build and Stabilize Supply," https://childcareta.acf.hhs.gov/sites/default/files/using_grants_and_contracts_1.pdf; Legal Information Institute, Cornell Law School, "41 U.S. Code § 9858c - Application and Plan," https://www.law.cornell.edu/uscode/text/42/9858c

[20] National Collaborative for Infants and Toddlers, "Grants and Contracts: A Strategy for Building the Supply of Subsidized Care," https://ncit.org/resource/grants_and_contracts_a_strategy_for_building_the_supply_of_subsidized/

[21] Child Care Aware of America, "A Snapshot of State Responses in Draft CCDF Plans."

3. **CAP favors using prospective payment models to stabilize provider budgets, promote educator retention, and boost supply for limited types of care.**

The 2025 rule would revoke the 2024 provision (§ 98.45(m)(1)) aimed at ensuring the timeliness of provider reimbursements through CCDF by paying in advance or at the start of service delivery for children receiving assistance. Paying providers prospectively helps to stabilize child care operations, such that a provider can work on a predictable reimbursement schedule, and would not lose funding due to a child's absence for illness or emergency. Because costs associated with operating a child care program typically operate on regular schedules – such as rent and mortgage payments, utilities and supplies, and compliance-related expenses – delayed, intermittent, or reduced reimbursements affects a providers' ability to afford the basic necessities associated with maintaining their programs and providing high-quality care.

Prospective payment models are also aligned with practices among private pay families, who typically pay their child care provider on a weekly, biweekly, or monthly basis, before the delivery of care. In fact, the National Association for the Education of Young Children (NAEYC) found that 77 percent of child care directors and administrators require prospective payments from their participating families.[22] Delays in reimbursements common in retrospective payment models create significant financial burdens for providers, and states that have yet to adopt prospective payment models tend to depend on private pay parents to be responsible for the resources that keep providers afloat.[23] In a market where families already struggle to cover necessary expenses and child care prices exceed every recognized affordability threshold, this is an undue burden.

Financial instability for child care providers because of delays in reimbursements also discourages child care providers, particularly smaller, home-based family child care providers, from participating in the subsidy system. This also has adverse consequences for supply, because families with low-incomes who rely on the subsidy to be able to afford care may therefore not be able to acquire a slot in the program that they need, driving down overall enrollment, and increasing access issues among the most vulnerable families in need of services. A NAEYC survey of the child care workforce found that 73 percent of child care providers reported they would be more likely to accept families using subsidies if states paid providers in advance of services.[24]

According to 2025-2027 State/Territory CCDF Plans, 7 states indicate that they currently or plan to pay all child care providers prospectively: Hawaii, Kansas, Maryland, North Dakota, Texas, Utah, and Wisconsin. Several states submitted temporary waivers permitted under the flexibility of the 2024 rule in order to implement prospective payments – Alabama, Arizona, Connecticut, Illinois, Iowa, Louisiana, Maine, Nebraska, New Hampshire, Ohio, Oklahoma, Rhode Island,

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[22] NAEYC, "Improving Child Care Access, Affordability, and the Child Care and Development Fund (CCDF): A Proposed Rule by the Department of Health and Human Services on 7/13/2023," August 2023, https://www.naeyc.org/sites/default/files/wysiwyg/user-73607/naeyc_nprm_comments.final.pdf

[23] New America, "Prospective Payments: State Comparison of Implementation Decisions," Summer 2025, https://drive.google.com/file/d/1DaGcMNzf0TiqAlKw_6ACKQ-RHFhJeKHE/view

[24] Child Care Aware of America, "A Snapshot of State Responses in Draft CCDF Plans."

South Carolina, Vermont, Virginia, and West Virginia.[25] This suggests that numerous states recognize the importance of stabilizing provider payment practices, and are taking steps to adopt the model that reflects the needs of the sector. It should also be noted that prospective payment models based on anticipated enrollment are not without internal accountability measures to ensure that providers are appropriately reimbursed for the care that they provide – state lead agencies subsequently conduct checks to ensure that anticipated enrollment was accurate.[26] Rescinding the provision that states pay providers prospectively risks stalling the progress states have already made toward adopting this practice, endangering efforts to expand program participation, and potentially worsening the already dire supply crisis affecting the sector as other expenses – health care, food, housing, utility costs – all become more expensive.

4. **CAP supports reducing provider burden through enrollment-based reimbursements that further help to stabilize their programs, improve implementation, and boost program integrity.**

The proposed rule intends to repeal a provision instituted in 2024 that providers be reimbursed based on a child's enrollment in their program, rather than attendance. As with prospective payment models, enrollment-based payment practices are widely understood to support program stability, ensuring that providers are paid fairly for their services, and can maintain stability in their planning and budgeting. Authorized enrollment-based payments ensure that a child care provider is able to retain stable funding even if a child is temporarily absent for illness, emergency, or family obligation. A provider cannot instantaneously increase or decrease their staff, facilities, or supplies if a child is absent or switches providers. Child care providers operate on razor thin profit margins – less than one percent[27] – and a loss of funding associated with even short absences can have a significant impact on program operations.

Many states began adopting enrollment-based payment practices during the pandemic, when rolling absences due to prolonged illness were particularly common.[28] Child Care Aware of America and New America found in a 2021 analysis of state-based payment practices that within the first year of the pandemic, enrollment-based policies had a stabilizing effect in Massachusetts and California, where the initial study took place. More than 80 percent of providers accepting subsidies in Massachusetts, and 95 percent in two counties in California which were included in the study, were able to remain open with high market retention rates.[29] Subsequent surveys also revealed that 80 percent of providers reported that they would accept more subsidy-eligible families if they were paid based on enrollment rather than attendance. Authorized enrollment-based payment models also reflect the underlying intent and statutory

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[25] Ibid.
[26] New America, "Prospective Payments: State Comparison of Implementation Decisions."
[27] Center for American Progress, "Understanding the Basics of Child Care in the United States," February 2025, https://www.americanprogress.org/article/understanding-the-basics-of-child-care-in-the-united-states/
[28] Child Care Aware of America, "A Snapshot of State Responses in Draft CCDF Plans."
[29] Child Care Aware of America and New America, "Child Care Payments: Attendance Vs. Enrollments," June 2021, https://info.childcareaware.org/blog/child-care-payments-attendance-vs.-enrollments

language of CCDF, wherein lead agencies are required to certify that payment practices under the subsidy program generally mirror those of providers who do not accept subsidies, such that CCDF-eligible families have equal access.

States are already making important progress toward adopting enrollment-based payment models. According to 2025-2026 State/Territory CCDF Plans, 22 states and Washington DC indicated that they pay all providers baked on authorized enrollment, and not based on a child's attendance: Alabama, California, Hawaii, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Maryland, Mississippi, Missouri, New Hampshire, New Jersey, New Mexico, North Dakota, South Carolina, Tennessee, Texas, Utah, Wisconsin, West Virginia, and Wyoming.[30]

Importantly, while the 2024 rule mandates states to adopt enrollment-based payments, it preserves the flexibility for state lead agencies to require and obtain attendance records. This requirement helps ensure that subsidy dollars are being utilized by the children for whom they are intended, a practice many states that use enrollment-based payment systems continue to follow in order to promote program integrity. Furthermore, states maintain the option to terminate child care assistance before the scheduled redetermination in cases of excessive, unexplained absences, provided attempts have been made to contact both the family and the provider. These practices help to ensure that CCDF is used by and benefits families with low incomes who depend on the program to access high-quality child care, without sacrificing on the stability and support providers need in order to maintain their programs and services.

Conclusion

A robust, well-resourced, and stable child care and early learning system helps children and families thrive. CCDF is a crucial part of that system, and the 2024 regulatory changes that promoted fair payment practices for providers, eased administrative burdens around enrollment, and limited the cost burden for families with low incomes were a critical step toward strengthening the sector and improving both access and affordability.

Undermining those provisions, such as the intent of this proposed rule, will have the reverse effect — weakening the system, making it harder for providers to stay afloat, and further limiting options and jeopardizing access to child care for vulnerable families. Even if states are still permitted to implement the provisions in the 2024 rule, without regulatory guidance structuring when and how they achieve those ends leaves families and providers at the mercy of state-by-state inequities that result in scarcer or more costly child care options. The proposed rule would impose significant costs and burdens on children, families, providers, and the broader communities – which it has also failed to address or meaningfully consider in its summary. **We therefore urge you to revoke this proposal, and revert to the standing regulatory guidelines for the CCDF program.**

Thank you for your time and consideration of our request. Please do not hesitate to contact us with any additional questions or requests for information.

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[30] Child Care Aware of America, "A Snapshot of State Responses in Draft CCDF Plans."