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The Child Care and Development Block Grant: In Brief

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The Child Care and Development Block Grant Act of 1990 (CCDBG Act, as amended) is the main federal law governing child care programs for low-income working families. The CCDBG Act authorizes discretionary appropriations to support grants to state, territorial, and tribal lead agencies. Lead agencies use these funds to subsidize the child care expenses of eligible children and to improve the overall quality and supply of child care.

At the lead agency level, discretionary CCDBG funds are integrated with mandatory funds from the Child Care Entitlement to States (CCES). The CCES is permanently authorized in Section 418 of the Social Security Act. CCES funds generally must be spent according to CCDBG Act rules. Combined, the CCES and CCDBG are commonly called the Child Care and Development Fund (CCDF), and this report uses the term *CCDF* to refer to these joint funding streams, where appropriate. The CCDF is administered by the U.S. Department of Health and Human Services (HHS).

With limited exceptions, to be eligible for CCDF subsidies, a child must (1) be younger than age 13, (2) live with parents who are working or in a job training or education program, (3) have a family income at or below 85% of state median income, and (4) have family assets that do not exceed \$1 million. Lead agencies have some flexibility in implementing these rules and often set income eligibility limits below the federal maximum.

Parents of participating children may enroll their child with a provider who has a grant or contract with the lead agency (if available) or they may receive a certificate (sometimes called a voucher) to purchase child care from a provider of their choice. Nationally, most children are served by child care certificates.

Lead agencies set payment rates for child care providers after conducting an assessment of child care costs via a market rate survey or some other approved methodology. Payment rates are supposed to be sufficient to ensure equal access to child care (i.e., ensure CCDF recipients receive care that is comparable to the care provided to children not eligible for CCDF). HHS recommends that lead agencies set payment rates equal to at least the 75th percentile of the market (i.e., a level that equals or exceeds the rate charged by three out of every four child care providers).

With limited exceptions, participating families are expected to contribute to the cost of care on a sliding fee scale basis. Sliding fee scales must account for variations in income and family size, as well as other factors selected by lead agencies. Family copayments are not intended to be a barrier that prevents a family from receiving assistance. HHS recommends that lead agencies set copayments at a level that does not exceed 7% of family income.

In addition to subsidizing care for eligible children, lead agencies must spend a portion of their CCDF funds on activities to improve the quality and supply of child care in their communities. For instance, lead agencies may offer professional development or workforce supports, develop or implement tiered quality rating and improvement systems, or cultivate statewide systems of child care resource and referral services.

To receive CCDF funds, states and territories must have in effect child care licensing requirements. However, some providers may be exempted from these requirements (e.g., those caring for a small number of children or operating for a small number of hours). Lead agencies must also establish health and safety requirements in specified areas, such as prevention and control of infectious disease and building and premises safety. CCDF providers must comply with health and safety requirements and are generally subject to compliance inspections.

Lead agencies must collect and disseminate consumer education information to parents, the public, and (where applicable) child care providers. This includes information about the lead agency's licensing, monitoring, and background check processes. Certain information must be made available on a consumer-friendly website, including a localized list, searchable by zip code, of all licensed child care providers.

Contents

Introduction	1
Purposes.....	1
Lead Agencies	1
Subsidy Programs.....	2
Eligible Children and Families.....	2
Priority Groups.....	3
Eligibility Periods.....	3
Parental Choice and Eligible Providers.....	4
Provider Payment Rates	4
Family Copayments	5
Quality Improvement Activities	6
Licensing Requirements	7
Health and Safety Standards.....	7
Inspections.....	8
Criminal Background Checks.....	9
Consumer Education	10
Limitations on Use of Funds	10
Allocation of Funds	11
Funding and Children Served.....	12

Tables

Table 1. CCDF Funding Trends and Children Served, FY2013-FY2022	12
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Contacts

Author Information.....	12
-------------------------	----

Introduction

The Child Care and Development Block Grant Act of 1990 (CCDBG Act, as amended) is the main federal law governing child care programs for low-income working families.¹ CCDBG funds are awarded to state, territorial, and tribal lead agencies to subsidize the child care expenses of eligible children and to improve the overall quality and supply of child care.

The CCDBG Act of 1990 was last reauthorized by the CCDBG Act of 2014 (P.L. 113-186). This law substantially amended the CCDBG Act for the first time since 1996 and authorized discretionary appropriations for each of FY2015-FY2020. The authorization of appropriations has since expired, but annual appropriations acts continue to fund the CCDBG.

At the lead agency level, discretionary CCDBG funds are integrated with mandatory funds from the Child Care Entitlement to States (CCES). The CCES is permanently authorized in Section 418 of the Social Security Act.² CCES funds generally must be spent according to CCDBG Act rules, meaning the rules discussed in this report typically apply to both funding streams. Together, the CCES and CCDBG are commonly called the Child Care and Development Fund (CCDF); this report uses the term *CCDF* to refer to these joint funding streams, as appropriate. The U.S. Department of Health and Human Services (HHS) administers the CCDF.

Purposes

The CCDBG Act identifies seven broad program purposes:³

1. allowing states flexibility in developing their child care programs and policies;
2. promoting parental choice to empower working parents to choose the care that best suits their family;
3. encouraging states to provide consumer education information to parents and to promote family involvement;
4. helping states to deliver high-quality, coordinated early childhood care and education services that maximize parents' options and support parents trying to become independent of public assistance;
5. assisting states in improving overall quality of care by implementing health, safety, licensing, training, and oversight standards;
6. improving child care and development of participating children; and
7. increasing the number and percentage of low-income children in high-quality care.

Lead Agencies

Governors and tribal leaders must designate lead agencies to administer CCDF programs.⁴ Lead agencies develop a CCDF plan and coordinate services with other child care and early childhood

¹ The CCDBG was enacted in P.L. 101-508 and is codified at 42 U.S.C. §9857 et seq.

² 42 U.S.C. §618. For more information, see CRS In Focus IF10511, *Child Care Entitlement to States: An Overview*.

³ §658A(b) of the CCDBG Act.

⁴ §658D of the CCDBG Act and 45 C.F.R. §98.10.

development programs.⁵ Lead agencies have great flexibility in the design and operation of their child care programs, but they must meet certain federal rules. State and territorial lead agencies are generally subject to the same set of federal rules; some rules vary for tribal lead agencies.⁶

Subsidy Programs

Eligible Children and Families

Under CCDF rules, eligible children generally⁷ must

- be under age 13 (children may be older in limited circumstances);⁸
- reside with a parent or parents⁹ who are working or attending a job training or education program (unless the child is receiving or needs protective services);
- reside with a family whose income does not exceed 85% of state median income¹⁰ (SMI), or lower depending on state policy; and
- reside with a family whose assets do not exceed \$1 million.¹¹

Most states adopt initial income eligibility limits below 85% of SMI. A summary of FY2022-FY2024 state plan policies released by HHS suggests that income limits for a family of four ranged from 39.94% of SMI in New Jersey to 85% of SMI in nine states (Alaska, Arkansas, California, Hawaii, Maine, Mississippi, Oklahoma, Oregon, and Utah).¹²

⁵ Links to recent state plans can be found at <https://www.acf.hhs.gov/occ/form/approved-ccdf-plans-fy-2022-2024>.

⁶ This report footnotes some cases in which rules for tribal lead agencies are different from rules for state or territorial lead agencies. Tribal rules can also vary depending on the size of the tribal lead agency's allocation (small, medium, or large). Under current HHS guidance, small tribal allocations are less than \$250,000; medium allocations are \$250,000 to \$1,000,000; and large allocations are more than \$1,000,000. For more information, see ACF Program Instruction CCDF-ACF-PI-2022-06, August 1, 2022, <https://www.acf.hhs.gov/occ/policy-guidance/ccdf-acf-pi-2022-06>.

⁷ Rules vary for tribal lead agencies, depending on allocation size. Per 45 C.F.R. §98.81(b), if the tribe receives a medium or large allocation and the tribe's median income is below a level established by HHS (85% of state median income in the FY2023-FY2025 tribal preprint), the tribe may consider all Indian children in the service area to be eligible, regardless of family income, work, or training status. However, services must "still go to those with the greatest need." If such a tribe's median income is above the level established by HHS, the tribe must apply regular eligibility rules (though the tribe may set income limits using tribal *or* state median income). Regulations at 45 C.F.R. §98 Subpart I exempt tribes with small allocations from many rules. Recent tribal preprints note that such tribes may set their own eligibility rules (e.g., see the FY2023-FY2025 tribal preprint at https://www.acf.hhs.gov/sites/default/files/documents/occ/FY_2023-FY_2025_CCDF_Tribal_Plan_Preprint_ACF-118a.pdf, p. 61).

⁸ Regulations at 45 C.F.R. §98.20(a)(1)(ii) give states the option to serve children who are under the age of 19 and physically or mentally incapable of caring for themselves or under court supervision.

⁹ Regulations at 45 C.F.R. §98.2 define the term *parent* to mean a parent by blood, marriage, or adoption, as well as a legal guardian, or other person standing in loco parentis.

¹⁰ SMI is a measure based on the income distribution in a state. At 100% of SMI, the family income distribution in the state is divided into two equal parts for families of a given size: 50% of families of a given size are estimated to have income greater than the state median, and 50% of families of that size are estimated to have income less than the state median. By setting the federal limit at 85% of SMI, eligibility is restricted to a subset of children whose family income falls below the state median for a family of the same size. Per 45 C.F.R. §98.20(a)(2), states must set income limits using the most recent Census-published SMI data.

¹¹ Per 45 C.F.R. §98.20(a)(3)(ii)(A)-(B), the income and asset limits may be waived on a case-by-case basis for a child who is receiving protective services, who needs to receive protective services, or who is a foster child.

¹² HHS, Administration for Children and Families, Office of Child Care, *Preliminary Reports from FY2022-FY2024 State and Territory CCDF Plan Preprint*, <https://www.acf.hhs.gov/occ/report/preliminary-reports-fy2022-2024-state->

The CCDF is considered a *federal public benefit* under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA, P.L. 104-193).¹³ As such, eligibility is limited by a child's citizenship or immigration status; nonqualified alien children are not eligible.¹⁴

Priority Groups

Lead agencies are expected to give priority for services to children in families with very low income, children with special needs, and children experiencing homelessness.¹⁵ Regulations clarify that *children experiencing homelessness* are those covered by Section 725 of Subtitle VII-B of the McKinney-Vento Act.¹⁶ Neither the CCDBG Act nor program regulations define the terms *very low income* or *children with special needs* with respect to eligibility.¹⁷ Instead, lead agencies themselves define these terms in CCDF plans, leading to some variation. There is also variation in how lead agencies prioritize these groups. For example, some lead agencies guarantee subsidies for a priority population, while others adopt other strategies (e.g., serving these children before other eligible children, waiving copayments, reserving slots using grants or contracts).

Eligibility Periods

Participating children are generally expected to retain eligibility for at least 12 months before undergoing an eligibility redetermination process.¹⁸ During the 12-month period, children retain eligibility regardless of a *temporary change* in parental work status or family income, as long as family income has not increased above the federal threshold of 85% SMI.¹⁹ Lead agencies have the option, but are not required, to discontinue assistance due to a non-temporary change in the parent's work, education, or job training activities. However, assistance must be continued for at least three months to allow for job search or a change in the parent's work or training status.

and-territory-ccdf-plan-preprint. See summary for plan item 3.1.3b for a family size of four. This summary reflects plans submitted as of July 1, 2021, and does not reflect any subsequent changes or amendments to the state's plan.

¹³ HHS designated the CCDF as a federal public benefit program in 63 *Federal Register* 41658.

¹⁴ Regulations at 45 C.F.R. §98.20(c) state that the child is the primary beneficiary and thus only the child's eligibility is relevant; lead agencies are prohibited from conditioning a child's eligibility for services on the citizenship or immigration status of the child's parent. For further discussion of federal public benefits, see CRS Report R46510, *PRWORA's Restrictions on Noncitizen Eligibility for Federal Public Benefits: Legal Issues*.

¹⁵ §658E(c)(3)(B)(i) of the CCDBG Act and 45 C.F.R. §98.46(a). Regulations at 45 C.F.R. §98.83(d)(1)(v) exempt all tribal lead agencies from the requirement to give priority to children in families with very low income.

¹⁶ 45 C.F.R. §98.2. Section 725 of the McKinney-Vento Act defines *homeless children and youths* as those who "lack a fixed, regular, and adequate nighttime residence," including those specifically identified by the law (e.g., those living in cars, parks, and public spaces, and those sharing housing with others due to loss of housing or economic hardship).

¹⁷ Per 45 C.F.R. §98.46, children with special needs may include any vulnerable population identified by a lead agency.

¹⁸ §658E(c)(2)(N) of the CCDBG Act and 45 C.F.R. §98.21(a). Tribal lead agencies with large or medium allocations are subject to the 12-month period, but those with small allocations are not. See the FY2023-FY2025 tribal preprint at https://www.acf.hhs.gov/sites/default/files/documents/occ/FY_2023-FY_2025_CCDF_Tribal_Plan_Preprint_ACF-118a.pdf (pp. 5-6, 75-77).

¹⁹ Regulations at 45 C.F.R. §98.21(a)(1)(ii) clarify that a *temporary change* shall include, at a minimum: (1) time-limited absences from work due to reasons such as the need to care for a family member or an illness; (2) interruptions in work for a seasonal worker between regular industry work seasons; (3) student holidays or breaks for a parent participating in training or education; (4) reductions in work, training, or education hours, as long as the parent is still working or attending training or education; (5) other cessation of work or attendance at a training or education program that does not exceed three months, or a longer period of time established by the lead agency; (6) any change in age, including turning 13 years old during the eligibility period; (7) any change in residency within the service area.

Lead agencies that set initial income limits below 85% of SMI must have redetermination policies in place that allow for a graduated phaseout of assistance.²⁰ These lead agencies are expected to establish a two-tier eligibility system, with a second income eligibility tier set at an income level above the lead agency's initial income eligibility limit. The purpose of this is to allow for wage growth and a tapered transition out of the subsidy program, rather than an abrupt benefit cliff.

Parental Choice and Eligible Providers

Parents of eligible children must be given choice in selecting an eligible child care provider.²¹ Eligible child care providers generally must

- be licensed, regulated, or registered by the state; and
- meet minimum health and safety standards.²²

Parents may enroll their child with an eligible provider who has a grant or contract with the lead agency (if available) or they may receive a certificate (sometimes called a voucher) that can be used to purchase child care from a provider of their choice.²³

Nationally, the majority of children are served by certificates (roughly 94% in FY2020), but there is variation among states and territories.²⁴ For example, three states (California, Massachusetts, and New York) and two territories (Puerto Rico and the U.S. Virgin Islands) reportedly served at least 30% of participating children with grants or contracts, rather than certificates, in FY2020.²⁵

Provider Payment Rates

Lead agencies are responsible for setting CCDF payment rates. These rates determine the amount a child care provider receives for serving participating children. Typically, payment rates vary by setting (e.g., home- or center-based), age of child, and other characteristics (e.g., region). Lead agencies often use tiered rates to issue higher payments based on certain criteria, such as meeting high-quality standards, operating during nontraditional hours, or serving special populations.

Prior to setting rates, lead agencies must periodically conduct an assessment of child care costs.²⁶ This may be done via a statistically valid and reliable market rate survey that reflects variations in

²⁰ §658E(c)(2)(N) of the CCDBG Act and 45 C.F.R. §98.21(b).

²¹ §658E(c)(2)(A) of the CCDBG Act and 45 C.F.R. §98.30.

²² §658P6 of the CCDBB Act. An exception is made for child care providers caring only for relatives who are (by marriage, blood, or court decree) a grandchild, great grandchild, sibling (if the provider lives in a separate residence), niece, or nephew. However, such providers must comply with requirements applicable to relative caregivers.

²³ §658P6 of the CCDBB Act. Per 45 C.F.R. §98.30(a), a grant or contracted child care slot must be offered to parents "if such services are available," whereas parents must be offered a child care certificate "any time that child care services are made available to a parent." Per 45 C.F.R. §98.839(e), tribal lead agencies receiving medium and small allocations are exempt from the requirement to offer certificates. A *child care certificate* is a check or other disbursement issued "by a State or local government under this subchapter directly to a parent who may use such certificate only as payment for child care services or as a deposit for child care services if such a deposit is required of other children being cared for by the provider" (§658P(2) of the CCDBG Act). In limited cases, certificates may be provided in cash. See relevant discussion in the preamble to the 1998 Final Rule (63 *Federal Register* 39949).

²⁴ See Table 2 of the preliminary FY2020 program statistics at <https://www.acf.hhs.gov/occ/data/fy-2020-ccdf-data-tables-preliminary>. These statistics are for state and territorial programs; tribal programs are not included.

²⁵ *Ibid.*

²⁶ Under Section 658(E)(4)(B) of the CCDBG Act, the market assessment must be conducted not earlier than two years before the lead agency submits its CCDF plan. CCDF plans cover a three-year period. Per 45 C.F.R. §98.83(d)(1)(iv), all tribal lead agencies are exempt from the requirement to conduct a market rate survey or alternative methodology.

price by geographic area, provider type, and age of child. Alternatively, lead agencies may use a different methodology to assess market rates, such as a cost estimation model approved by HHS.

Payment rates must be “sufficient to ensure equal access” to child care.²⁷ This requirement is intended to ensure that CCDF recipients receive care that is comparable to the care provided to children whose families are not eligible for subsidies (e.g., families with higher incomes).²⁸ Payment rates must also take into consideration the costs of providing higher quality care.²⁹

HHS encourages lead agencies to set payment rates that are equal to at least the 75th percentile of the market (i.e., a level that equals or exceeds the rate charged by three out of every four providers).³⁰ However, this is not a requirement and there is great variation in payment rates.³¹

Family Copayments

Families receiving CCDF subsidies are generally required to contribute to the cost of care on a sliding fee scale basis.³² Regulations give lead agencies the discretion to waive copayments for families (1) with income at or below the poverty level; (2) whose children are receiving or in need of protective services; and (3) who meet other criteria set by the lead agency.³³

When setting sliding fee scales, lead agencies must account for variations in income and family size.³⁴ Lead agencies may consider other factors as well (e.g., number of children the family has in care, whether care is part- or full-time), but may not set copayments based on the cost of care or subsidy amount (e.g., as a percentage of the payment rate).³⁵ HHS argues the latter is essential for “preserving equal access and parental choice because basing co-payments on cost or subsidy amount incentivizes families to use lower cost care and impedes access to higher cost care.”³⁶

²⁷ §658E(c)(4)(A) of the CCDBG Act and 45 C.F.R. §98.45. Tribal lead agencies receiving large or medium allocations are generally subject to this requirement, but those with small allocations are not. See the FY2023-FY2025 tribal preprint at https://www.acf.hhs.gov/sites/default/files/documents/occ/FY_2023-FY_2025_CCDF_Tribal_Plan_Preprint_ACF-118a.pdf (pp. 5-6, 88-91).

²⁸ Investigations by the HHS Office of the Inspector General have raised questions about whether states are meeting equal access requirements. See Suzanne Murrin, *States’ Payment Rates Under the Child Care and Development Fund Program Could Limit Access to Child Care Providers*, HHS Office of Inspector General, OEI-03-15-00170, August 2019, <https://oig.hhs.gov/oei/reports/oei-03-15-00170.pdf>.

²⁹ §658E(c)(4)(B)(iii) of the CCDBG Act and 45 C.F.R. §98.45(f).

³⁰ This recommendation has been made in preambles to multiple proposed and final rules. Most recently, it was included in HHS, Administration for Children and Families (ACF), “Child Care and Development Fund (CCDF) Program,” 81 *Federal Register* 67512, September 30, 2016, <https://www.govinfo.gov/content/pkg/FR-2016-09-30/pdf/2016-22986.pdf> (hereinafter referred to as the “2016 Final Rule”).

³¹ Lead agencies typically report their payment rates as a percentile of the market rate in their child care plans. For instance, see responses to question 4.3.1 in the *Preliminary Reports from the FY2022-FY2024 State and Territory CCDF Plan Preprint* at <https://www.acf.hhs.gov/occ/report/preliminary-reports-fy2022-2024-state-and-territory-ccdf-plan-preprint>. In addition, the National Women’s Law Center conducts its own survey of state child care policies and presents an analysis of state payment rates in 2021 as a percentile of the market rate in the following paper: Karen Schulman, *At the Crossroads: State Child Care Assistance Policies 2021*, National Women’s Law Center, May 2022, pp. 12-15, 42-51, <https://nwlc.org/wp-content/uploads/2022/06/State-of-Child-Care-2022-WIP-accessibility.pdf>.

³² §658E(c)(5) of the CCDBG Act and 45 C.F.R. §98.45(k).

³³ 45 C.F.R. §98.45(k).

³⁴ §658P(13) of the CCDBG Act and 45 C.F.R. §98.45(k).

³⁵ 45 C.F.R. §98.45(k)(2).

³⁶ 2016 Final Rule (81 *Federal Register* 67515).

By law, copayments should not be a barrier that prevents a family from receiving assistance.³⁷ To this end, HHS recommends, but does not require, that the maximum family copay be set at a level that does not exceed 7% of family income.³⁸ This benchmark was set based on research from the U.S. Census Bureau’s Survey of Income and Program Participation (SIPP), which concluded that, nationally, families spent an average of 7% of their monthly income on child care.³⁹ The research also found that poor families spent about four times the share of their income on child care compared to higher income families.⁴⁰ Thus, the 7% HHS benchmark effectively seeks to reduce the child care cost burden for CCDF families to no more than the national average.

Preliminary program data indicate that in FY2020, the mean copay as a percentage of family income was 6% nationally, when excluding families with no copay from the calculation.⁴¹ Copay levels vary widely across states, ranging from 15% of family income in Hawaii to 1% of family income in Arkansas, when excluding families with no copay.⁴²

In cases where the CCDF payment (the lead agency’s payment plus the family’s copay) falls below the private-pay market rate charged by a given child care provider, most states allow the provider to charge families an additional fee to make up the gap. As of October 2019, all but 12 states and territories allowed providers to charge such a fee at least some of the time.⁴³

Quality Improvement Activities

In addition to subsidizing care for eligible children, states and territories must spend at least 12% of their child care funds on quality improvement activities: at least 3% must be to improve quality for infants and toddlers and an additional 9% may be for quality activities more generally.⁴⁴ The

³⁷ §658E(c)(5) of the CCDBG Act and 45 C.F.R. §98.45(k). Tribal lead agencies receiving large or medium allocations are generally subject to this rule, but those with small allocations are not. See the FY2023-FY2025 tribal preprint at https://www.acf.hhs.gov/sites/default/files/documents/occ/FY_2023-FY_2025_CCDF_Tribal_Plan_Preprint_ACF-118a.pdf (pp. 5-6, 81-84).

³⁸ 2016 Final Rule (81 *Federal Register* 67515).

³⁹ 2016 Final Rule (81 *Federal Register* 67515). HHS relied on findings from the U.S. Census Bureau’s SIPP, as reported in Lynda Laughlin, *Who’s Minding the Kids? Child Care Arrangements: Spring 2011*, U.S. Census Bureau, 2013, p. 15 (hereinafter, “*Who’s Minding the Kids*, 2013”).

⁴⁰ 2016 Final Rule (81 *Federal Register* 67515). See also *Who’s Minding the Kids*, 2013, p. 17.

⁴¹ See Table 17 of the preliminary FY2020 program statistics at <https://www.acf.hhs.gov/occ/data/fy-2020-ccdf-data-tables-preliminary>. When including families without a copay in the calculation, the mean copay was 4% of family income. These statistics are for state and territorial programs; tribal programs are not included. Several states and territories (Alaska, American Samoa, Georgia, Mississippi, North Carolina, the Northern Mariana Islands, Ohio, and the U.S. Virgin Islands) had not submitted some or all of the required data at the time these tables were published.

⁴² *Ibid.*

⁴³ Kelly Dwyer, Sarah Minton, Danielle Kwon, and Kennedy Weisner, *Key Cross-State Variation in CCDF Policies as of October 1, 2019: The CCDF Policies Database Book of Tables*, HHS, ACF, Office of Planning, Research, and Evaluation (OPRE), OPRE Report #2021-07, December 2020, pp. 194, 212-217 (Table 29), https://ccdf.urban.org/sites/default/files/state_2019_ccdf_policies_dec_2020.pdf. In 2015, HHS issued a proposed rule (80 *Federal Register* 80515-80516) that, with limited exceptions, would have prevented child care providers from charging families such a fee. HHS received comments that this proposal “would be a serious restraint on parental choice and impediment to access high-quality child care” (see 81 *Federal Register* 67516). Ultimately, HHS did not adopt this policy in the 2016 final rule.

⁴⁴ See §658E(c)(2)(D)-(E) of the CCDBG Act, 45 C.F.R. §98.33, and 45 C.F.R. §98.50(b). Regulations at 45 C.F.R. §98.83(g) establish different rules for tribal lead agencies. All tribal lead agencies must spend at least 9% of their per-child awards on general quality activities (as of FY2022), but only those receiving medium or large allocations are required to spend an additional 3% of their per-child awards on activities to improve quality for infants and toddlers. (Regulations exclude all tribal base grants from all quality spending requirements.)

law and regulations outline a number of activities that may be conducted with quality dollars.⁴⁵ For instance, lead agencies may offer professional development or other workforce supports, develop or implement tiered quality rating and improvement systems, or cultivate statewide systems of child care resource and referral services. In addition, states and territories must implement early learning and developmental guidelines covering essential domains of development.⁴⁶

Licensing Requirements

To receive CCDF funds, states and territories must certify in their CCDF plans that they have in effect licensing requirements applicable to child care services provided in the state.⁴⁷ A state or territory may establish different licensing rules for different types of child care providers (e.g., center-based, home-based) and may exempt some providers from licensing requirements altogether (e.g., those caring for a small number of children or operating for a small number of hours).⁴⁸ States and territories that allow CCDF funds to go to license-exempt providers must describe, in their CCDF plans, why this does not endanger the health, safety, or development of participating children.

Health and Safety Standards

Lead agencies must establish health and safety requirements in certain areas.⁴⁹ Required health and safety topics include the following:

- prevention and control of infectious diseases (including immunization),⁵⁰
- prevention of sudden infant death syndrome and use of safe sleeping practices;
- administration of medicine, consistent with standards for parental consent;
- prevention of and response to emergencies due to food and allergic reactions;

⁴⁵ §658G(b) of the CCDBG Act and 45 C.F.R. §98.53(a).

⁴⁶ §658E(c)(2)(T) of the CCDBG Act and 45 C.F.R. §15(a)(9). Regulations at 45 C.F.R. §98.81(b)(6) exempt tribal lead agencies with medium or large allocations from this requirement. Regulations at 45 C.F.R. §98.81(c) allow tribal lead agencies with small allocations to submit an abbreviated plan. The FY2023-FY2025 tribal plan preprint asks if lead agencies plan to use funds for early learning and developmental guidelines, but does not require them to do so (see https://www.acf.hhs.gov/sites/default/files/documents/occ/FY_2023-FY_2025_CCDF_Tribal_Plan_Preprint_ACF-118a.pdf, pp. 52-54).

⁴⁷ §658E(c)(2)(F) of the CCDBG Act and 45 C.F.R. §98.40. This requirement does not apply to tribal lead agencies. Instead, §658O(c)(2)(D) the CCDBG Act requires HHS to consult with Indian tribes and tribal organizations on applicable minimum child care standards that appropriately reflect tribal needs and available resources.

⁴⁸ The National Center on Early Childhood Quality Assurance conducts regular studies of child care licensing and facility requirements. Research briefs from these studies offer an overview of licensing requirements across settings, including licensing exemptions. See <https://childcareta.acf.hhs.gov/child-care-licensing-tools-and-resources>.

⁴⁹ §658E(c)(2)(I) of the CCDBG Act and 45 C.F.R. §98.41. These requirements generally apply to tribal lead agencies.

⁵⁰ §658E(c)(2)(I)(i)(I) of the CCDBG Act requires lead agencies to have a grace period allowing homeless children and foster children to receive services while taking steps to comply with immunization and other requirements. Per 45 C.F.R. §98.41(a)(1)(i)(C), lead agencies may establish grace periods for other children. In addition, regulations at 45 C.F.R. §98.41(a)(1)(i)(B) allow lead agencies to exempt from immunization requirements children (1) who are cared for by relatives, (2) who receive care in their own homes, (3) whose parents object on religious grounds, and (4) whose medical condition contraindicates immunization. For children with relative caregivers or receiving care in their own homes, the exemptions only apply if no unrelated children are being cared for in the same setting.

- building and physical premises safety, including identification of and protection from hazards that can cause bodily harm (such as electrical hazards, bodies of water, and vehicular traffic);
- prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
- emergency preparedness and response planning for a natural disaster or a human-caused event (e.g., violence at a child care facility);
- handling and storage of hazardous materials and disposal of biocontaminants;
- appropriate precautions in transporting children (if applicable);
- pediatric first aid and cardiopulmonary resuscitation (CPR); and
- recognition and reporting of child abuse and neglect.⁵¹

In addition, lead agencies must certify that all CCDF providers will receive orientation or pre-service training on the topics listed above.⁵² Lead agencies may add extra training requirements in areas such as nutrition and age-appropriate feeding, access to physical activity, caring for children with special needs, or other subjects necessary to promote child development or protect children's health and safety.⁵³ Lead agencies must set standards for group size limits (by age group), child-to-caregiver ratios (by age group), and qualification requirements for providers.⁵⁴

Inspections

Lead agencies must ensure that CCDF providers comply with health and safety requirements.⁵⁵ Lead agencies must conduct or require the following inspections for compliance with health, safety, and fire standards:

- pre-licensure and annual unannounced inspections of licensed child care providers receiving CCDF funds (a 2016 final rule encourages states to inspect all licensed providers, not just those receiving CCDF);⁵⁶ and
- annual inspections of license-exempt providers receiving CCDF funds.⁵⁷

Licensing inspectors must be trained in the applicable health and safety standards and licensing rules.⁵⁸ In addition, the ratio of licensing inspectors to child care providers must be sufficient to ensure that inspections occur in a timely manner.

⁵¹ Per §658E(c)(2)(L) of the CCDBG Act, child care providers must meet child abuse reporting requirements in §106(b)(2)(B)(i) of the Child Abuse Prevention and Treatment Act (CAPTA). The preamble to the 2016 CCDF final rule clarifies that HHS interprets this provision as requiring child care providers (including caregivers, teachers, and directors) to perform as child abuse and neglect mandatory reporters “whether or not” a state explicitly identifies these persons as mandatory reporters under CAPTA. See the 2016 Final Rule (81 *Federal Register* 67487-67488).

⁵² §658E(c)(2)(I) of the CCDBG Act, 45 C.F.R. §98.41(a)(2), and 45 C.F.R. §98.44(a).

⁵³ 45 C.F.R. §98.41(a)(1)(xii).

⁵⁴ §658E(c)(2)(H) of the CCDBG Act and 45 C.F.R. §98.41(d).

⁵⁵ §658E(c)(2)(K) of the CCDBG Act and 45 C.F.R. §98.42. Per 45 C.F.R. §98.83(d)(2), the inspection requirements apply to tribal lead agencies, unless the tribe's plan describes an alternate approach with adequate justification.

⁵⁶ See related discussion in the 2016 Final Rule (81 *Federal Register* 67489).

⁵⁷ Section 658E(c)(2)(K)(i)(IV) of the CCDBG Act clarifies that relative caregivers are exempt from these inspections.

⁵⁸ §658E(c)(2)(K) of the CCDBG Act and 45 C.F.R. §98.42.

Criminal Background Checks

Lead agencies must ensure that criminal background checks are conducted every five years for child care staff members of all CCDF providers, as well as all licensed, regulated, or registered child care providers.⁵⁹ An exception is made for providers caring exclusively for relatives.⁶⁰ Criminal background checks must include a search of state criminal registries, state child abuse and neglect registries, state sex offender registries, and the National Sex Offender Registry, as well as a Federal Bureau of Investigation (FBI) fingerprint check.⁶¹ The state registry checks must be completed for each state in which the staff member resided in the last five years.

CCDF providers are prohibited from employing anyone who refuses to consent to a background check or knowingly makes a false statement on their background check.⁶² In addition, CCDF providers are prohibited from employing registered sex offenders or those convicted of selected felonies or violent misdemeanors.⁶³ Failure to comply with these requirements makes a provider ineligible for CCDF funding. The CCDBG Act and regulations do not apply these employment prohibitions to non-CCDF providers, but lead agencies may do so at their discretion.

Lead agencies have encountered a number of challenges in implementing the background check requirements, which were enacted as part of the 2014 reauthorization law.⁶⁴ HHS reports that as of 2022, slightly less than half of states, territories, and tribes were in full compliance with all but one of these requirements.⁶⁵ The Child Care Protection Improvement Act of 2020 (P.L. 116-279),

⁵⁹ §658(H) of the CCDBG Act and 45 C.F.R. §98.43. Criminal background checks must also be done for prospective staff members. *Child care staff members* are individuals (1) who are employed by a child care provider for compensation or (2) 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. This includes contract employees, self-employed individuals, and all adults (ages 18 and up) residing in a family child care home. Per 45 C.F.R. §98.82(d)(3), tribal lead agencies are generally subject to the criminal background check requirements, unless the lead agency describes an alternate background check approach (with adequate justification) in its CCDF plan.

⁶⁰ §658(H)(i) of the CCDBG Act and 45 C.F.R. §98.43(a)(2).

⁶¹ For more information, see regulations at 45 C.F.R. §98.43(b). These regulations require fingerprint-based checks of the state criminal registry where the individual currently resides, but they make fingerprints optional for the state criminal registry checks in other states. Regulations clarify that FBI fingerprints are to use Next Generation Identification, formerly the Integrated Automated Fingerprint Identification System (the latter term is used in the CCDBG Act). While the law suggests there are to be separate checks of the National Crime Information Center (NCIC) and the National Sex Offender Registry (NSOR), regulations at 45 C.F.R. §98.43(b)(2) clarify that the NSOR falls within the NCIC. The preamble to the 2016 Final Rule (81 *Federal Register* 67496) notes that the NSOR is the only relevant NCIC file, as no other NCIC files contain information on disqualifying crimes.

⁶² §658(H)(c) of the CCDBG Act.

⁶³ Under §658H(c) of the CCDBG Act, disqualifying crimes include felony convictions consisting of 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; or (subject to review) a drug-related offense committed during the preceding five years. Additional disqualifying convictions include violent misdemeanors committed as an adult against a child, including for child abuse, child endangerment, sexual assault, or a misdemeanor involving child pornography. Lead agencies may establish additional disqualifying crimes.

⁶⁴ HHS, ACF, OPRE, *Barriers and solutions to implementing CCDBG Act interstate background check requirements*, OPRE Report #2022-176, August 2022, <https://www.acf.hhs.gov/opre/report/barriers-and-solutions-implement-ccdbg-act-interstate-background-check>.

⁶⁵ HHS, ACF, *Interagency Task Force on Child Safety Report to Congress*, October 2022, p. 32. No state is in total compliance with the requirement that background checks be completed within 45 days, due to challenges with the processing speed of interstate requests. (One state does not control how long it takes another state to respond to an interstate background check request.) Under §658H(j)(3) of the CCDBG Act, HHS is to withhold 5% of a state's discretionary CCDBG allotment if the state fails to comply substantially with criminal background check requirements.

enacted in December 2020, required HHS to establish an Interagency Task Force for Child Safety to develop recommendations for improving implementation of CCDF background check requirements. A report containing the task force’s conclusions was issued in October 2022.⁶⁶

Consumer Education

Lead agencies must collect and disseminate consumer education information to parents, the public, and (where applicable) child care providers.⁶⁷ This includes information about a lead agency’s licensing, monitoring, and background check processes. Certain information must be made available on a consumer-friendly website, including

- a localized list, searchable by zip code, of all licensed child care providers (and, at the discretion of the lead agency, license-exempt CCDF providers);
- the quality rating of a child care provider, if available;
- the results of monitoring and inspection reports for all CCDF providers and all licensed providers; and
- aggregate information on deaths, serious injuries, and substantiated child abuse among CCDF providers.⁶⁸

Limitations on Use of Funds

Although the CCDF offers great flexibility, there are some limitations on use of funds. For instance, states and territories may not spend more than 5% of each fiscal year’s allotment on administrative costs.⁶⁹ Certain costs considered to be an “integral part of service delivery” are excluded from the 5% administrative cap, including costs of eligibility determinations, the development and maintenance of computerized child care information systems, and determination of erroneous payments (including case reviews and the preparation of error rate reports).⁷⁰

With limited exceptions, the CCDBG Act prohibits the use of federal funds for the “purchase or improvement of land, or for the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility.”⁷¹ An exception to this rule allows sectarian organizations to use funds for “renovation or repair” necessary to bring a facility into compliance

⁶⁶ HHS, ACF, *Interagency Task Force on Child Safety Report to Congress*, October 2022.

⁶⁷ §658E(c)(2)(E) of the CCDBG Act and 45 C.F.R. §98.33.

⁶⁸ §658E(c)(2)(D)-(E) of the CCDBG Act and 45 C.F.R. §98.33. Regulations at 45 C.F.R. §98.83(d) exempt tribal lead agencies from the requirement to have a consumer education website, but these agencies are still required to collect and disseminate certain provider-specific consumer education information in some way.

⁶⁹ §658E(c)(3)(C) of the CCDBG Act and 45 C.F.R. §98.54. Regulations establish different rules for tribal lead agencies. Per 45 C.F.R. §98.83(i), tribes receiving large or medium allocations may not spend more than 15% of their per-child awards on administrative costs (base grants are excluded from the 15% limit). Tribal construction or major renovation costs are not considered administrative costs for purposes of this calculation. Per 45 C.F.R. §98.83(f)(9), tribal lead agencies receiving small allocations are not subject to the 15% limit on administrative spending.

⁷⁰ 45 C.F.R. §98.54(b). See also page 411 of the conference report (H.Rept. 104-725) on the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, P.L. 104-193), which reauthorized the CCDBG Act.

⁷¹ §658E of the CCDBG Act. Regulations at 45 C.F.R. §98.56(b) clarify that state, territorial, or local agencies and nonsectarian agencies may use funds for “minor remodeling” and for upgrading facilities to ensure that providers meet state and local child care standards, including health and safety standards. Under these rules, improvements and upgrades not covered by the regulatory definitions (see 45 C.F.R. §98.2) for *construction* or *major renovation* “may be considered minor remodeling” and are, therefore, not prohibited.

with CCDF health and safety requirements.⁷² Another exception allows tribal lead agencies to use funds for construction, subject to the HHS Secretary's approval.⁷³

The CCDBG Act and regulations specify that funds awarded to child care providers as grants or contracts generally may not be used for any sectarian purpose or activity, including sectarian worship or instruction.⁷⁴ Funds provided via child care certificates, however, "may be expended for sectarian purposes or activities, including sectarian worship or instruction when provided as part of the child care services."⁷⁵

Allocation of Funds

Discretionary CCDBG funds are allotted among states (including the District of Columbia and Puerto Rico) using a formula based on the state share of children under age five, the state share of children receiving free- or reduced-price lunches, and state per capita income.⁷⁶ There are no state match requirements for these funds, but annual appropriations acts typically stipulate that CCDBG funds are to supplement and not supplant state general revenue spending on child care assistance for low-income families.⁷⁷ Statute requires that HHS reserve, from the total amount appropriated, 0.5% for four territories (American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands) and not less than 2% for Indian tribes and tribal organizations.⁷⁸ Statute also sets aside, from total appropriations, funds for technical assistance (up to 0.5%), research and evaluation (0.5%), and a national toll-free hotline and website (up to \$1.5 million).

Mandatory CCES funds are appropriated separately from the CCDBG and are allotted to the 50 states and the District of Columbia in two parts.⁷⁹ First, each state receives a fixed historical amount requiring no state financial contribution. Next, each state may receive a formula amount based on its share of all U.S. children under age 13. To receive formula funds, a state must meet maintenance-of-effort (MOE) and matching requirements. In addition, statute appropriates \$75 million to be distributed among five territories (American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands) and \$100 million for Indian tribes and tribal organizations. Recently, annual appropriations acts have also authorized HHS to reserve, from total CCES appropriations, up to 0.5% for technical assistance and 0.5% for research.⁸⁰

⁷² Regulations at 45 C.F.R. §98.56(b) reiterate that, pursuant to §658F(b) of the CCDBG Act, sectarian agencies may use funds for minor remodeling only to ensure compliance with health and safety standards, not for other purposes.

⁷³ §658O(c)(6) of the CCDBG Act and 45 C.F.R. §98.84. Procedures for tribal requests to use CCDF funds for construction or major renovation of child care facilities are covered in ACF Program Instruction, CCDF-ACF-PI-2020-02, May 14, 2020, <https://www.acf.hhs.gov/occ/policy-guidance/tribal-construction-or-major-renovation>.

⁷⁴ §658M of the CCDBG Act and 45 C.F.R. §98.56(d).

⁷⁵ 45 C.F.R. §98.56(d). See also 45 C.F.R. §98.30(c). Section 658P(1) of the CCDBG Act clarifies, "Nothing in this subchapter shall preclude the use of such certificates for sectarian child care services if freely chosen by the parent."

⁷⁶ §658O of the CCDBG Act and 45 C.F.R. §98.61.

⁷⁷ Past HHS guidance has clarified that the non-supplantation provisions apply to territories and tribes as well. See, for instance, HHS, ACF, ACF Program Instruction CCDF-ACF-IM-2018-03, August 22, 2018, https://www.acf.hhs.gov/sites/default/files/documents/occ/ccdf_acf_im_2018_03.pdf.

⁷⁸ HHS may reserve more than 2% for tribes if (1) total CCDBG appropriations are greater than in FY2014 and (2) the amount allotted to states is not less than in FY2014. Annual appropriations since FY2018 have each specified a dollar amount to be reserved for tribes *in addition to* funds reserved by HHS under the not-less-than-2% set-aside authority.

⁷⁹ §418 (a) of the Social Security Act.

⁸⁰ This has been the case in each year since FY2016.

Funding and Children Served

Table 1 displays CCDF appropriations for the last 10 years. For the CCDBG, the table also shows the authorized funding level, where applicable. Annual appropriations for the CCDBG exceeded the authorized level in each year shown. The CCDBG also received supplemental appropriations in several years. For the CCES, the table shows the mandatory appropriations provided in Section 418 of the Social Security Act.

States may augment their CCDF programs by transferring up to 30% of their Temporary Assistance for Needy Families (TANF) block grants to the CCDBG.⁸¹ This table shows the total amount of such transfers in each year. Transferred funds must be spent according to the CCDBG Act rules. The table also displays the number of children served by these combined funding streams in an average month for each fiscal year.

Table 1. CCDF Funding Trends and Children Served, FY2013-FY2022

(dollars in billions; average monthly children served in millions)

Fiscal Year	CCDBG Authorization	CCDBG Appropriations	CCES Appropriations	TANF Transfers	Children Served
FY2013	n/a	\$2.206 + \$0.095	\$2.917	\$1.367	1.450
FY2014	n/a	\$2.258	\$2.917	\$1.382	1.438
FY2015	\$2.360	\$2.435	\$2.917	\$1.251	1.394
FY2016	\$2.478	\$2.761	\$2.917	\$1.403	1.366
FY2017	\$2.540	\$2.856	\$2.917	\$1.275	1.307
FY2018	\$2.603	\$5.213	\$2.917	\$1.498	1.344
FY2019	\$2.669	\$5.258 + \$0.030	\$2.917	\$1.302	1.429
FY2020	\$2.748	\$5.826 + \$3.500	\$2.917	\$1.437	1.489
FY2021	n/a	\$5.878 + \$10.000 + \$14.990	\$3.550	not available	not available
FY2022	n/a	\$6.104	\$3.550	not available	not available

Source: The CCDBG Act, budget justifications, allocation tables, expenditure data, and program statistics.

Notes: n/a = not applicable. Appropriations reflect rescissions, transfers, and sequestration, where known. FY2013, FY2019, FY2020, and FY2021 show annual *plus* supplemental appropriations; in addition, FY2021 shows the one-time mandatory CCDBG appropriations (\$14.990 billion) provided in the American Rescue Plan Act of 2021 (ARPA; P.L. 117-2). The table does not show other ARPA mandatory child care appropriations, including \$35 million for federal child care administration and technical assistance, and \$23.975 billion for a Child Care Stabilization Fund. Children are those served in an average month (not cumulative); FY2020 data are preliminary.

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⁸¹ §404(d) of the Social Security Act.

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