



August 28, 2023

Megan Campbell
Office of Child Care
U.S. Department of Health and Human Services

RE: ACF– 2023–0003

Dear Ms. Campbell,

The Consortium for Constituents with Disabilities (CCD) Education Task Force monitors federal legislation and regulations that address the educational needs of children and youth with disabilities and their families, including regulatory efforts under federal law such as the Individuals with Disabilities Education Act (IDEA), the Every Student Succeeds Act (ESSA), Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA). We advocate for high expectations for children with disabilities under these and other laws. We appreciate the opportunity to provide comments on the U.S. Department of Health and Human Services (HHS) Notice of Proposed Rulemaking regarding Improving Child Care Access, Affordability, and Stability in the Child Care and Development Fund (CCDF). Our comments and recommendations are:

Recommendation: Implement New and Refine Existing Policies to More Fully Support Families Whose Children Have Disabilities

CCD appreciates and supports the following proposals set forth in the NPRM:

- Lead Agencies must not set co-payment policies that are a barrier to families receiving assistance.
- Lead Agencies must assume some of the [new] costs and assure the amount paid to the child care provider is not affected.
- Lead Agencies must continue to set payment rates at levels that provide equal access to care for families receiving child care subsidies.
- Lead Agencies have the discretion to waive copayments for two additional populations:
 - Eligible families with income up to 150 percent of the Federal poverty level.
 - Eligible families with a child with a disability as defined by law, which applies to the entire family/not just the child.
- Lead Agencies maintain the existing right to waive copayments for families in need of protective services or to determine other factors for waiving copayments.

- Lead Agencies must provide some child care services through grants and contracts, using some grants or contracts for infants and toddlers, children with disabilities, and nontraditional hour care.
- Lead Agencies may provide that a child may be considered presumptively eligible for up to three months and begin to receive child care subsidy prior to full documentation and eligibility determination.
- Lead Agencies must improve reporting on strategies to meet the statutory requirement to take steps to increase the supply and improve the quality of child care services for children in underserved areas, infants and toddlers, children with disabilities, and children who receive care during nontraditional hours.

In addition to the above, CCD would also recommend that HHS:

- Require that each Lead Agency conduct an evaluation of and study childcare access needs for children with disabilities and based upon these data, respond with [additional] policies supportive of these families (e.g., expanding available options, increasing childcare provider payments, waiving copays and prioritizing these families on wait lists etc.). The evaluation is necessary to assure Lead Agencies take seriously the need to improve reporting on strategies to meet the statutory requirement to take steps to increase the supply and improve the quality of child care services for children with disabilities.
 - Specifically, CCD advocates that HHS must direct Lead Agencies to do more than waive copayments for the child with a disability but also waive copayments and assist the family in securing quality childcare for any sibling(s). Qualifying parents of children with disabilities have additional factors that must be considered and supported including their need to have quality childcare for all of their children while they attend to the extra demands of the child with a disability (e.g., time off work for therapy(s), medical fragility, employment stress etc.). Lead Agencies must assure that childcare is available for these families and implement provisions supportive of their unique factors.

As noted, CCD supports the proposals listed above and any additional changes to CCDF policy that will expand access to high quality, affordable childcare for families whose child may have a disability.

While CCD does not have a policy regarding a maximum percentage of income that families should pay for childcare (e.g., HHS proposal that family copayments must be no more than 7 percent of a family's income); we do know that children with disabilities are more likely to live in poverty (or conversely, poor children are more likely to have a disability)¹ and that children with disabilities and their families can struggle to both afford high quality childcare and to access it.² We also know that families are often faced with too few or no options for childcare especially for children ages 0-3 who have a disability and also to find childcare solutions for siblings.³

¹ In 2019, children living in poverty were more likely to have a disability (6.5%) than children living above the poverty threshold (3.8%). The difference in the prevalence of disability between children below and above the poverty threshold is noteworthy. <https://www.census.gov/library/stories/2021/03/united-states-childhood-disability-rate-up-in-2019-from-2008.html>

² *The Child Care Crisis Disproportionately Affects Children With Disabilities*, Center for American Progress, (2020). <https://www.americanprogress.org/article/child-care-crisis-disproportionately-affects-children-disabilities/>

³ Ibid.

Recommendation: Require States/Lead Agencies to Provide Useable, Accessible Information for All Parents and Other Consumers

CCD supports HHS' proposal to require states and Lead Agencies to develop and post information about their copayment sliding fee scales. We hope HHS will expand upon the requirement to ensure the information is made available in plain language and addresses other barriers to this information such as whether it is interoperable and accessible via assistive technology (and meets the federal standards set forth in Sec. 508 of the Rehabilitation Act), is available in multiple languages and incorporates a translation option for online information. The information must include eligibility requirements, how to apply, timelines and cost information, including a description of how copayments might differ based on the provider a family selects, and details about wait lists or other factors impacting access to childcare.

CCD appreciates the opportunity to comment. If you have any questions or need any further information, please contact Laura Kaloi @lkaloi@stridepolicy.com, Kim Musheno @kmusheno@autism-society.org, or Lindsay Kubatzky @lkubatzky@nclcd.org if you have any questions.

Sincerely,

American Academy of Pediatrics
Autistic People of Color Fund
Autistic Self Advocacy Network
Autism Society of America
Center for Learner Equity
Children and Adults with Attention-Deficit/Hyperactivity Disorder
CommunicationFIRST
Council of Parent Attorneys and Advocates (COPAA)
Eggleston
Family Voices
National Association of Councils on Developmental Disabilities
National Center for Learning Disabilities
National Disability Rights Network (NDRN)
National Down Syndrome Congress
The Advocacy Institute
The Arc of the United States