All Our Kin

Restoring Flexibility in the Child Care and Development Fund (CCDF)
A Proposed Rule by the Department of Health and Human Services on 01/05/2026

February 4, 2026

Robert F. Kennedy, Jr.
Secretary of United States Department of Health and Human Services

RE: Docket number 2025-24272 / RIN number 0970-AD20

Dear Secretary Kennedy,

The Child Care and Development Fund (CCDF) is a crucial program that helps bring child care within reach for families with low incomes, especially as the cost of care skyrockets across the country. Communities nationwide depend on the viability of this program, the stability it can offer providers and early educators, and the early learning services that help set children up for success in school and beyond.

The 2024 rule – *Improving Child Care Access, Affordability, and Stability in the Child Care and Development Fund* – was developed specifically to address the widespread and mounting affordability crisis in the child care sector, insufficient and delayed payments for providers, and inadequate child care supply that limits options for families.[1] The provisions included in that rule were developed on the basis of extensive data, research, and feedback from both the field and from parents, and were aimed at maximizing program participation, boosting parent choice of care type, and improving program integrity.

Rolling back the 2024 rule does little to improve flexibility in the program – which is already designed to ensure families can seek out a range of care options while allowing states flexibility in developing high-quality child care programs and policies. Indeed, the proposed rule fails to address any documented issues with the existing standards, and will weaken the program, undermining its intended purpose and curtailing its ability to meet its statutory requirements. Moreover, rolling back these provisions will have an outsized impact on smaller providers, both center-based and home-based, who operate on small margins and benefit from more stable and consistent payment practices. Further, the proposed rule would result in greater costs and burdens on parents and families with low incomes, who rely on the program to work, go to school, and provide for their families.

[1] Office of Child Care, Administration for Children and Families, "2024 CCDF Final Rule: Improving Child Care Access, Affordability, and Stability in the Child Care and Development Fund," https://acf.gov/occ/outreach-material/2024-ccdf-final-rule.

Ultimately, state leaders, advocates, and child care experts, in consultation with families, understand best what the field needs to ensure program integrity, improve access, and support children's early learning, and the regulatory requirements for the program should reflect those insights. The proposed rule would have the opposite effect, failing to consider the expertise of the early childhood community or the significant costs and burdens that the proposed rule would have on children, families, providers, and broader communities – and undermining the efforts of state administrators who have already implemented 2024 rule changes to pay providers more fairly and promote access to early learning.

At a time when care remains out of reach for families[2] – and many face significant barriers to affording basic needs, like housing, health care, and food[3] – rolling back the 2024 provisions will only weaken the sector; drive more early educators from the field; and fuel higher costs for families.

All Our Kin is a national organization that provides educational mentorship, professional development, and systems-building support to family child care educators. Our mission is to ensure that family child care providers succeed as small business owners, while being able to support working families and providing an early childhood foundation that sets children up for success in school and life. All Our Kin works directly with family child care educators in under-resourced communities in Connecticut and New York. Additionally, we provide training and technical assistance to partner organizations nationwide to strengthen engagement and partnership with family child care educators and agency stakeholders. Through this work, we have firsthand insight into the impact of the CCDF regulations and a deep understanding of the increase in systemic barriers that family child care educators would face without the protections and supports provided by current regulations.

We strongly urge the Administration for Children and Families to support family child care providers and ensure access for working families to affordable, high quality child care across a full range of program settings. We offer the following recommendations:

- *Preserve these provisions and withdraw its proposed rule – Restoring Flexibility in the Child Care and Development Fund (CCDF)*[4]

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[2] RAPID Survey Project, "Parents of young children report widespread disruptions and challenges to child care access," https://rapidsurveyproject.com/article/parents-of-young-children-report-widespread-disruptions-and-challenges-to-child-care-access/.

[3] Nani Oesterle, "Stanford Survey Shows Families with Young Children – and their Caregivers – Increasingly Struggle to Meet Basic Needs," https://www.hiltonfoundation.org/learning/stanford-survey-shows-families-with-young-children-and-their-caregivers-increasingly-struggle-to-meet-basic-needs/.

[4] Federal Register, "Restoring Flexibility in the Child Care and Development Fund (CCDF)," https://www.federalregister.gov/documents/2026/01/05/2025-24272/restoring-flexibility-in-the-child-care-and-development-fund-ccdf.

    - *Ease enrollment processes and lowering families' costs by capping required co-payments at 7 percent of household income and waiving co-payments for additional families;*
    - *Strengthen payment practices to stabilize child care providers by using grants, contracts, enrollment-based reimbursements, and prospective payment models;*
    - *Reduce administrative burden by clarifying CCDF requirements for better implementation and oversight.*
- *Reconsider the implications of rescinding the 2024 rule*
- *Conduct additional field testing to determine statewide and sectorwide impacts prior to implementing any rule changes*
- *Center the perspectives of those most impacted – children, families, and family child care providers – and the impact these proposed modifications will have on their ability to access and afford care and run their businesses as outlined in this comment.*

Repeal of The 7 Percent Cap on Family Co-payments

- **The proposed rule repeals the following provision from the 2024 final rule:**
    - § 98.45(l)(3) Provides for affordable family co-payments that are not a barrier to families receiving assistance under this part, not to exceed 7 percent of income for all families, regardless of the number of children in care who may be receiving CCDF assistance.

Research indicates that, for families with low incomes, the cost of child care is a barrier to access at any co-payment level.[5] Families with low incomes spend an average of 35 percent of their income on child care costs, while families with higher incomes spend 7 percent of their income on average, according to data from the Survey of Income and Program Participation. Needing to spend higher percentages of income on care demonstrates that child care is particularly unaffordable for families who are eligible for CCDF, and higher costs lead to tighter budgets and harder decisions for families who are already in a challenging financial position. Eliminating affordability parameters for families receiving CCDF subsidies needlessly opens the door to increased co-payments that can impede the intended purpose of the law to "best suit the needs of children and parents," (42 U.S.C. 9857(b)(1)).

Based on the 2025–2027 CCDF State Plans, 34 states and the District of Columbia indicate their maximum co-payment is at or below 7 percent, while most remaining states have temporary waivers.[6] This widespread adoption demonstrates that states recognize the importance of keeping co-payments affordable and have been able to implement this requirement within a short timeframe and without undue burden. In addition, these affordability parameters have engendered significant reliance interests by many families and providers in

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[5] 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.

[6] Child Care Aware of America, "A Snapshot of State Responses in Draft CCDF Plans," https://info.childcareaware.org/hubfs/SnapshotofStateCCDFPlanResponsesUpdated.pdf.

these states, who have enrolled in and structured their programs based on the existing cap on family co-payments. Maintaining a clear affordability threshold therefore builds on existing state practice and supports the work that has already taken place to come into compliance.

Families who have multiple children receiving a subsidy would be hit the hardest by the proposed rule, which eliminates previous guidance that caps the copayment at 7 percent "regardless of the number of children in care who may be receiving CCDF assistance," (§ 98.45(l)(3)). In fiscal year (FY) 2022, approximately 1.4 million children from 870,900 families received CCDF child care assistance per month – meaning that a significant portion of families receiving assistance could see their costs increase dramatically under new regulations.[7]

The 7 percent cap translates statutory intent that "co-payments should not be a barrier to families receiving CCDF assistance" into a measurable threshold (Section 658E(c)(5)). This rescission would ultimately force a number of families to base child care decisions on cost rather than on the option that best meets their needs, or even lose access to child care programs altogether. As the 2024 rule recognized, *see 89 Fed. Reg. at 15*, increased barriers to affordable child care jeopardizes the ability of many parents, and especially mothers, to reenter the workforce, work more hours, or otherwise support themselves and their families. Further, without defining "barriers to access" clearly, proposed language creates inconsistency and inequities across states and territories in affordability and access. As families face inflation and a rising cost of living, it is important not to remove the guardrails that protect CCDF's affordability.

Repeal of the Requirement to Use Some Grants or Contracts for Direct Services

- **The proposed rule repeals the following provision from the 2024 final rule:**
    - § 98.30(b)(1) Lead Agencies shall increase parent choice by providing some portion of the delivery of direct services via grants or contracts, including at a minimum for children in underserved geographic areas, infants and toddlers, and children with disabilities.

There is a serious shortage of child care across the country, particularly for families living in low income or rural areas, families with infants and toddlers, children with disabilities, and families in need of non-traditional hour care – despite the importance of reliable, quality child care for healthy development of these children and the well-being of their families.[8]

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[7] 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.

[8] Annie D. Schoch, Cassie S. Gerson, Tamara Halle, and Meg Bredeson, "Children's Learning and Development Benefits from High Quality Early Care and Education: A Summary of the Evidence," U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, August 2023, https://www.acf.hhs.gov/sites/default/files/documents/opre/%232023-226%20Benefits%20from%20ECE%20Highlight%20508.pdf.

- There are 14.8 million children nationwide in need of child care, compared to 10.8 million licensed child care slots – and the gap in supply is wider in rural areas.[9]
- There are an estimated 2.2 million children ages 5 and under who have a reported disability,[10] yet their families struggle to access child care; 34 percent of parents of children with disabilities experience at least some difficulty finding child care, compared to 25 percent for parents with nondisabled children.[11]
- Forty three percent of children in the U.S. have a parent working nontraditional-hours,[12] yet only 34 percent of listed home-based providers and just 8 percent of center-based providers offer non-traditional hour care.[13]

Grants and contracts can be an effective tool and strategy for addressing the shortage of these and other types of care, helping increase the supply, stability, and quality of child care by reducing provider uncertainty (42 U.S.C. 9858c(c)(2)(M)). Grants and contracts can also improve parent choice by expanding the range of quality options in communities where currently few are available – such as low-income neighborhoods and rural communities. This also enhances the resources available to a wide range of providers who would not otherwise be able to provide care where there are shortages.

According to a recent report from the National Institute for Early Education Research, family child care programs provide care for approximately a quarter of infants (27%) and toddlers (24%), reflecting many parents' preference for the small home environment and mixed age groups these programs offer.[14] These educators are also more likely to offer extended and non-traditional hours of care that are essential in rural and under-resourced communities, where flexible child care options are limited. Repealing this provision will increase risk of

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[9] Buffet Early Childhood Institute, Child Care Aware of America, and Bipartisan Policy Center, "New Interactive 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.

[10] Government Accountability Office, "Child Care Accessibility: Agencies Can Further Coordinate to Better Serve Families with Disabilities," September 2024, https:// www.gao.gov/products/gao-24-106843.

[11] 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/.

[12] Brian Knop, "Parents Burning the Midnight (and Weekend) Oil," November 2017, https://www.census.gov/newsroom/blogs/random-samplings/2017/11/parents_burning_the.html.

[13] National Survey of Early Care and Education Project Team, Fact Sheet: Provision of Early Care and Education During Non-Standard Hours (OPRE Report #2015-44) (Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research and Evaluation, 2015), https://acf.gov/opre/report/fact-sheet-provision-early-care-and-education-during-non-standard-hours.

[14] Weisenfeld, G., & Harmeyer, E. (2024). Including family child care in pre-k systems: An update at the local level. National Institute for Early Education Research. https://nieer.org/sites/default/files/2024-09/nieer-fcc-prek-update-final2.pdf#:~:text=As%20more%20cities/counties%20are%20developing%20and/or%20expanding.programs%20accompanied%20by%20tables%20outlining%20the%20data

under-investment for family child care, further constraining supply and reducing access to stable, consistent, high-quality care for families in these communities.

Repeal of the Requirement to Pay Child Care Providers Prospectively

- **The proposed rule repeals the following provision from the 2024 final rule:**
    - § 98.45(m)(1) Ensure timeliness of payment to child care providers by paying in advance of or at the beginning of the delivery of child care services to children receiving assistance under this part;

Paying child care providers prospectively – either in advance of or at the start of service delivery – offers significant benefits for both providers and families. Prospective payment helps to stabilize child care operations, increase family choice by supporting a broader supply of care options, and align subsidy payment practices with those used by private-pay families.

This is especially true for family child care providers, whose smaller profit margins limit flexibility in covering basic operating expenses such as rent, mortgage costs, utilities and supplies, and compliance-related expenses that require up-front payment.

Private-pay families commonly pay for child care services weekly, bi-weekly, or monthly in advance of care. A survey conducted by the National Association for the Education of Young Children (NAEYC) found that 77 percent of child care directors and administrators require families to pay prospectively.[15] In contrast, many states reimburse providers serving children in the subsidy system only after care has been delivered, often weeks later. These delays can create significant financial strain and threaten program stability. Providers have reported that slow reimbursement makes participation in the subsidy system challenging, leading some to limit the number of children receiving subsidies or to forgo participation altogether.

We are encouraged by the progress states continue to make toward adopting payment practices that reflect those generally accepted in the private-pay child care market. Several states have implemented prospective payment models, including Hawaii, Kansas, Maine, Maryland, New Hampshire, North Dakota, South Carolina, Utah, Texas, and Wisconsin – and many providers in these states have grown to rely on this model in developing and implementing their programs.[15]

Implementing prospective payments for child care subsidies better aligns subsidy policies with standard private-pay practices and support providers' ability to manage ongoing expenses. According to the same NAEYC survey, 73 percent of child care leaders indicated they would be more likely to accept families using subsidies if states paid providers in advance of services. [15] Improved payment practices, such as prospective payments, can strengthen the supply of child care and expand family choice in addition to stabilizing providers' businesses. In contrast, rescission of this requirement would destabilize child care operations, while decreasing child care options and family choice.

Repeal of the Requirement to Pay Child Care Providers Based on a Child's Enrollment Rather Than Attendance

- **The proposed rule repeals the following provision from the 2024 final rule:**

- § 98.45(m)(2) Support the fixed costs of providing child care services by delinking provider payments from a child's occasional absences by: (i) Basing payment on a child's authorized enrollment; or, (ii) An alternative approach for which the Lead Agency provides a justification in its Plan that the requirements at paragraph (m)(2)(i) of this section are not practicable, including evidence that the alternative approach will not undermine the stability of child care programs.

For providers, including small business owners like family child care providers, enrollment-based payments allow for stability in planning and budgeting for child care businesses, and prevent programs from losing funding due to occasional absences, which can occur for a variety of reasons such as illness or vacations. Child care businesses, particularly family child care, already operate on thin profit margins and high fixed costs related to staffing and space, and those costs do not go down if a child is absent for several days for any reason.

Requiring payment based on enrollment doesn't just benefit child care programs, but also families who receive subsidy dollars by maximizing choice and minimizing risk of financial uncertainty. Child care providers do not have to accept subsidy dollars, but a 2023 survey by NAEYC found that 80 percent of child care program administrators would be more likely to serve families utilizing subsidies if providers were paid by enrollment rather than attendance.[14] Similarly, in states where providers are allowed to charge families more than their co-payment, providers can charge families for the full cost of an absent day not covered by subsidy or cover the cost themselves. This increases the financial hit a family might face if they were to miss work due to a sick child or increases the risk of them losing the care that allows them to work. Enrollment-based payment practices protect working families from unpredictable financial burdens.

Beyond the practical reasons for paying based on enrollment, requiring states to do so represents best alignment with the underlying statute governing CCDF. Under the CCDF, lead agencies are required to certify that payment practices under the subsidy program reflect generally accepted payment practices of providers in the state who do not accept child care assistance. Because of the reasons described above, enrollment based pay does represent by far the most commonly accepted payment practice for providers only operating in the private market.

States are already making important progress towards embracing enrollment-based payment, with 24 states, and DC doing so as of 2026. And importantly, for states that have moved towards enrollment-based payment, an analysis from Child Care Aware of America and New America found that those practices had a stabilizing effect for providers that rely on this structure.[15]

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[14] Ibid.
[15] Child Care Aware of America, "Child Care Payments: Attendance Vs. Enrollments," June 2021, https://info.childcareaware.org/blog/child-care-payments-attendance-vs.-enrollments.

Importantly, while requiring states to embrace enrollment-based payments, the 2024 Final Rule also continues to give state lead agencies the flexibility to require attendance records to ensure children are utilizing subsidy dollars, and many states that pay based on enrollment continue to require and collect those data from providers as part of their efforts to ensure program integrity. States also retain the flexibility to discontinue child care assistance prior to redetermination for excessive unexplained absences despite attempts to contact the family and provider.

We appreciate that the notice of proposed rulemaking acknowledges the importance of continuing to prioritize delinking provider payments from occasional absences, as required under statute. However, continuing to require states to pay providers based on authorized enrollment rather than reverting back to previous measures maximizes family choice and supports the stability of child care programs.

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 those included in 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. The proposed rule would impose significant costs and burdens on children, families, providers, and the broader communities – which the proposed rule has failed to address or meaningfully consider in its summary. **We therefore urge you to maintain the 2024 provisions to CCDF in order to ensure that families can continue to access affordable, high-quality child care across a full range of program settings.**

Thank you for your consideration of these comments for the proposed rulemaking. If you have any questions, please contact Jessica Sager, Co-Founder and Chief Executive Officer of All Our Kin, at jessica@allourkin.org.