

**To:** Secretary Xavier Becerra, U.S. Department of Health and Human Services  
Katie Hamm, Deputy Assistant Secretary, Office of Early Childhood Development, ACF  
Megan Campbell, Child Care Policy Supervisor, Office of Child Care, ACF

**From:** Leanne Barrett, Rhode Island KIDS COUNT

**Cosigned:** Rep. Grace Diaz, Co-Chair RI Permanent Legislative Commission on Child Care  
Sen. Alana DiMario, Co-Chair RI Permanent Legislative Commission on Child Care  
Rep. Justine Caldwell  
Beautiful Beginnings  
Cadence Education  
Connecting for Children and Families  
Dr. Daycare Learning Centers  
Economic Progress Institute  
Genesis Center  
Magic Years Child Care Gallery, Inc.  
Parents Leading for Educational Equity (PLEE)  
Precious Years Nursery  
RI Association for the Education of Young Children  
RI Child Care Directors Association  
RI Head Start Association  
SEIU 1199  
The Learning Garden Children’s Center  
United Way of Rhode Island  
YMCA of Pawtucket

**Date:** August 28, 2023

**Re:** Child Care Development Fund, Notice of Proposed Rulemaking - Comments

**Rhode Island KIDS COUNT and the individuals/organizations listed above are submitting comments in support of all the proposed changes outlined in the July 2023 notice of proposed rulemaking (NPRM) for the Child Care Development Fund.** The NPRM proposes changes to lower families' child care costs, improve child care provider payment practices, and to streamline eligibility and enrollment processes so families can receive child care assistance faster and so program bureaucracy is less likely to disrupt parent employment, training, and education and impede access to child care.

Specifically, we support the following proposed changes to the federal rule. We indicate which changes Rhode Island has already voluntarily implemented and which we would still need to implement. Please contact Leanne Barrett at [lbarrett@rikidscount.org](mailto:lbarrett@rikidscount.org) or 401-742-2772 with any questions.

### **Proposed Federal CCDF Rule Changes Already Implemented in Rhode Island**

<b>§ 98.45(l)(3) Requires states to set family copayment amounts not to exceed 7 percent of income for all families, regardless of the number</b>	<b>We strongly support this new rule.</b> In 2021, responding to strong advocacy, the Rhode Island General Assembly passed legislation that lowered family copayments for the Child Care Assistance
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<p>of children in care who may be receiving CCDF assistance.</p>	<p>Program (that were as high as 14% of income) and permanently capped copayments so they could not exceed 7% of family income. A federal rule would make this even stronger.</p>
<p>§ 98.45(g) Clarifies that Lead Agencies may <b>pay providers an amount higher than they charge private paying parents when the CCDF agency established payment rate is above the providers’ private pay price.</b></p>	<p><b>We strongly support this clarified rule.</b> In 2019, responding to strong advocacy, the Rhode Island General Assembly repealed a statutory restriction from Rhode Island law that required the state to pay child care providers rates that were not higher than the lowest rate they charged private paying parents. This has helped improve access to quality child care, reduce bureaucratic requirements for the state and providers (checking regularly to find the lowest private pay rates for each licensed providers – some of whom didn’t actually serve any private pay families – like Head Start), and remove an unreasonable incentive for providers to raise rates for private pay families (who do not qualify for CCAP but are still struggling to afford child care) in order to capture the full rate paid by the state, especially right after the state increases rates for CCAP providers.</p>
<p>§ 98.21(g)(1) and (2) At the Lead Agency’s option, <b>enrollment in other benefit programs or documents or verification used for other benefit programs may be used to verify eligibility for CCDF.</b></p>	<p><b>We support this rule only when it reduces bureaucracy for families and providers and improves children’s access to the RI Child Care Assistance Program.</b> Advocates are actively working to repeal the requirement in Rhode Island state law that families must fully cooperate with the RI Office of Child Support Enforcement to be eligible for the Child Care Assistance Program. We also need to remove requirements in regulation that result in families being required to 1) establish paternity/parentage for any child to qualify for the Child Care Assistance Program, 2) participate in Family Court proceedings to establish child support provisions with absent parent, 3) participate in Family Court proceedings to monitor and enforce child support provisions. The state requirements and internal connections between the Child Care Assistance Program and the Child Support Enforcement Office are a significant barrier interfering with access to quality child care.</p> <p>In addition, we are concerned about additional costs and implementation challenges associated</p>

	<p>with consolidating benefit programs. Since September 2016, when the second phase of the Unified Health Infrastructure Project (UHIP)/RI Bridges Project launched, <b>Rhode Island has been offering residents online applications through a portal to apply for and enroll in key human service benefit including the RI Child Care Assistance Program</b>, Supplemental Nutrition Assistance Program (SNAP), General Public Assistance (GPA), and Supplemental Security Income (SSI) programs <b>to expedite enrollment for families and to use information and documents across systems to verify eligibility</b>. Unfortunately, we have not yet seen these investments and changes resulting in any significant improvements for families to access the Child Care Assistance Program. <a href="#">The UHIP/RI Bridges project has been plagued with technical failures</a> resulting in <a href="#">delays in eligibility determination for families and delays in payments to providers and individuals</a>.</p>
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### Proposed Rule Changes Rhode Island Will Need to Implement (Requirements)

<p>§ 98.45(m)(1) <b>Require states to pay prospectively (not as a reimbursement) and § 98.45(m)(2) pay based on children’s enrollment not children’s attendance.</b></p>	<p><b>We are very supportive of the requirement to pay providers prospectively as is the common practice in the private pay child care sector.</b> This practice increases financial stability of programs and should improve families’ access to high-quality programs that have declined to accept a CCAP certificate in the past because current payment practices require child care providers to assume the risk of serving children before they get paid.</p> <p>Rhode Island has already adopted more reasonable absence policies which have moved us toward payment based on enrollment and this new policy would be another big step in the direction of paying based on enrollment (as we do for K-12, Head Start, State Pre-K, and the private sector child care system requires).</p>
<p>§ 98.30(b)(1) <b>Require states and territories to provide some child care services through grants and contracts</b> as one of many strategies to increase the supply and quality of child care,</p>	<p><b>We are very supportive of the proposal to require states to use some grants and contracts for child care services, at a minimum for infants and toddlers, children with disabilities, and</b></p>

<p>including at a minimum, using some grants or contracts for infants and toddlers, children with disabilities, and nontraditional hour care.</p>	<p><b>nontraditional-hour care.</b> Funding for both Head Start and the Rhode Island State Pre-K program comes through contracts/grants and have enabled these systems to meet higher quality standards, recruit and retain more qualified educators by offering better compensation.</p> <p>Specifically, in Rhode Island, stakeholders have discussed the idea of offering contracts to support high-quality staffed family child care networks and to offer infant/toddler child care contracts to Early Head Start settings (including those that are part of the EHS-Child Care Partnership) and centers that offer RI Pre-K so programs will not shut down infant and/or toddler classrooms in order to make room to expand the RI Pre-K program. It would be helpful to know how many contracts would be considered sufficient to comply with the rule.</p>
<p>§ 98.21(d) <b>The Lead Agency shall establish policies and processes to incorporate additional eligible children in the family</b> (e.g., siblings or foster siblings), including ensuring a minimum of 12 months of eligibility between eligibility determination and redetermination for children previously determined eligible and for new children who are determined eligible, without placing undue reporting burden on families.</p>	<p><b>We support the requirement that each and every child in a family has a certificate that meets the minimum 12-month eligibility requirement.</b> Additionally, we support the guidance to states to align eligibility periods to the newest child’s eligibility period for families with multiple children accessing assistance.</p>
<p>§ 98.33(a)(8) <b>Require Lead Agencies to post current information about their process for setting the sliding fee scale</b> and for policies related to waiving copayments and estimated payment amounts for families.</p>	<p><b>We support this requirement to help make sure families and providers know how the state establishes the copayment structure, which provider(s) are expected to collect copayments in a family with multiple children at different settings, what the copayments are, and the circumstances in which they are waived.</b> Currently, the state posts the copayment information on a website, but there is no information about how the copayment structure is determined or could be changed or when copayments are waived (e.g., for families with foster children receiving CCAP). <b>It would also be helpful for the federal Office of Child Care to provide clearer guidance on establishing tiered copayment structures to include multiple tiers below 7%.</b> When Rhode Island adopted the 7% copayment cap, the state did not recalibrate the copayment tiers/sliding fee schedule, but instead</p>

	just changed all copayments above 7% to equal 7%.
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**Proposed Rule Changes Rhode Island Should Implement (Options) – With support from Rhode Island families and providers, the state should revise state regulations to implement.**

<p>§ 98.21 At a Lead Agency’s option, <b>a child may be considered presumptively eligible for up to three months</b> and begin to receive child care subsidy prior to full documentation and eligibility determination.</p>	<p>We support this proposal which encourages states to employ a transformative solution that seeks to minimize bureaucratic barriers for families who need child care and incentivizes states to complete the eligibility determination in a timely fashion.</p> <p>Rhode Island offers a “pending certificate” for families that apply to the RI Child Care Assistance Program but very few providers currently accept these because they are required to refund the state any payments that were made for families who are later determined ineligible. In the early 2000s many providers accepted these certificates, but with increased bureaucratic rules causing delays in eligibility determinations for families and more cases being determined ineligible (or eligible for fewer hours of care), most providers no longer accept families with a pending certificate.</p>
<p>§ 98.45(l)(4) At Lead Agency discretion, <b>allows for co-payments to be waived for families whose incomes are at or below 150 percent of the poverty level</b> for a family of the same size, that have children who receive or need to receive protective services, that have children who have a disability, or that meet other criteria established by the Lead Agency.</p>	<p><b>We strongly support this proposal which we hope the state will adopt to help more of our lowest income families access the RI Child Care Assistance Program.</b> Currently, Rhode Island families making between 101% and 150% of the federal poverty level are required to make copayment ranging from 2% to 5% of their income. Adoption of this policy will also help child care providers as the state will cover the full payment so they will not have to try to collect copayments from families that do not have enough resources to meet their basic needs (especially housing).</p>