



Early Care and Education Consortium
CCDBG Reauthorization Analysis
November 21, 2014



On November 19, 2014, President Obama signed the newly reauthorized Child Care and Development Block Grant (CCDBG) into law. Earlier that week, the Senate made historic and bipartisan progress by passing the bill by a voice vote of 88 to 1. S.1086, incorporates input and changes made over the course of the past several years as Congressional leaders and staff, as well as a broad community of advocates and voices from the field, worked to update and improve the act, last authorized in 1996. Introduced in the 113th Congress during the summer of 2014, the bill represented a bipartisan commitment to reauthorizing the law made by Representatives John Kline (R-MN), George Miller (D-CA), Todd Rokita (R-IN), and David Loebsack (D-IA), and Senators Tom Harkin (D-IA), Lamar Alexander (R-TN), Barbara Mikulski (D-MD), and Richard Burr (R-NC). After today's vote, the bill will move to the President's desk for signature.

The newly reauthorized CCDBG significantly improves child care safety, quality, and access through a series of key provisions outlined below. The bill includes new language that directly addresses affordability, continuity of care, and cost stabilization that will both benefit families and support providers. Much of this language came directly from ECEC member perspectives that were communicated to Congressional leaders through a variety of channels.

The full CCDBG text is available [here](#). An analysis of the bill is below that includes a summary of key provisions, discussion of new requirements that are distinct from newly allowable flexibility for states, implementation timelines, forthcoming guidance from the Department of Health and Human Services (HHS), and next steps as we move forward into implementation.

I. WHAT ARE THE KEY PROVISIONS IN THE NEWLY REAUTHORIZED CCDBG?

Consumer Education

- Requires states make provider-specific monitoring and inspection reports electronically available, including the number of deaths, serious injuries, and instances of substantiated child abuse that occur in child care settings each year, as well as incident dates, corrective action taken on major substantiated complaints; also requires electronically available information about the availability of all child care services, including information about quality, and licensure information to promote informed decision-making by parents.

- Requires States to have a website describing processes for licensing and monitoring child care providers, processes for conducting criminal background checks, and offenses that prevent individuals from being child care providers.
- Funds a national website to disseminate consumer education information that allows search by zip code and referral to local child care providers, as well as a national hotline for reporting child abuse and neglect.
- Requires information about research, best-practices, expulsion policies, and developmental screenings must also be included.
- Allows states to use Resource and Referral agencies to disseminate this information.

Health and Safety

- **Newly requires state explanation for how the health, safety and development of children in the care of any unlicensed provider are assured.**
- *Provider training and professional development:* Includes a full range of activities, including pre-service and in-service training, and post-secondary education aligned with input from the state Advisory Council to the state's training framework. Training hours and credentialing policies are determined by the state.
- *Child to-staff ratios:* Requires States to have standards for CCDF providers regarding group size limits and appropriate child-to-provider ratios based on the age of children in child care. Allows for state flexibility in determining these.
- *Health and Safety Requirements:* Health and safety requirements regarding immunization, emergency preparedness among other precautions. All providers receiving CCDBG funds must participate in program must receive pre-service and ongoing training on the requirements.
- *Health and Safety Inspections:* **Newly requires annual, unannounced inspections of all licensed providers and annual fire, health, and safety inspections of license-exempt providers that receive assistance, with the exception of those caring only for family members. One prelicense inspection is required. Qualified inspector ratio to inspection sites must be maintained at a sufficient level.**
- *Disaster planning:* Requires state disaster plan and disaster preparedness training.

Access Improvements

- **Newly requires a 12-month eligibility re-determination period for CCDF families, regardless of changes in income (as long as income does not exceed the federal threshold of 85% of State median income) or temporary changes in participation in work, training, or education activities, applying to county- as well as state-level administrative entities.**
- **Newly allows States the option to terminate assistance prior to re-determination if a parent loses employment, however assistance must be continued for at least three months to allow for job search.**

- Provides for a graduated phase-out of assistance for families whose income has increased at the time of re-determination, but remains below the federal threshold.
- Newly requires state redetermination to take regular fluctuation in family earnings into account.
- *Rate Setting*: Requires States to conduct a market rate survey, or newly allows the use of an alternative methodology such as a cost estimation model, and describe how payment rates will be established based on results of the survey or alternative methodology, taking into account cost of providing higher quality services.
- *Supply-building*: States must develop strategies for increasing supply and quality of services for children in underserved areas, infants and toddlers, children with disabilities, and children in non-traditional hour care—which may include use of grants/contracts and alternative reimbursement.
- *Provider payment practices*: Newly requires states to establish policies that reflect generally accepted payment practices for child care providers, including (to the extent practicable) paying for absence days, and timely reimbursement for child care services.
- Newly requires payment practices to provide stable funding to encourage more providers to serve low-income children.
- Newly encourages states to delink provider reimbursement with unforeseen child absences to stabilize child care providers' business models.

Quality Improvements

- Quality Set Asides:
 - 7% in the first two years
 - 8% in the third and fourth years
 - 9% in the fifth years and after
 - 3% for quality and supply of infant and toddler child care
- *Quality Set-Aside Options*: States must conduct a needs assessment of their child care quality needs and align their quality activities with the assessment results. Allowable quality activities include:
 - Training and professional development;
 - Improvement of early learning guidelines;
 - Implementation of a tiered quality rating system linked to provider incentives for quality improvement;
 - Improving the supply and quality of infant and toddler care;
 - Expanding resource and referral services;
 - Facilitating state licensing compliance;
 - Evaluating child care programs' effectiveness, including positive impacts on children;
 - Supporting voluntary accreditation;

- Supporting quality health, physical activity and nutrition standards in child care settings; and/or
- Any other quality improvement activity that can be measures.
- *Professional Development*: Requires establishment of professional development and training requirements with ongoing annual training and progression to improve knowledge and skills of CCDF providers.
- *Early Learning Guidelines*: Requires states to develop or maintain developmentally appropriate early learning guidelines. Disallows federal determination of guidelines, standards or standards-based accountability.
- *Assessment*: **Newly prohibits use of assessment as a sole determinant of child eligibility, program effectiveness or provider rewards or penalties.** Clarifies use of assessment for improving learning and classroom environments, identifying the need for diagnostic screening, targeting professional development, and informing state quality improvement processes and program evaluation.
- *Behavioral Supports and Social-Emotional Development*: Requires provider training on child behavioral supports to reduce expulsions from early childhood programs and reporting on state expulsion policies.
- *Business Practices*: **Newly requires states to develop and implement strategies to improve provider business practices.** Allows for state flexibility in determining technical assistance.
- *Rate Setting*: **Newly allows states to conduct a cost estimation model instead of market rate survey on which to base provider payment rates to allow states to show a connection of the rates to the cost of care.**

Criminal Background Checks

- **Newly strengthened requirements for criminal background checks for all providers funded by the programs, including employment prohibitions on those convicted of a list of violent felonies, certain violent misdemeanors against children, and five-year time outs for drug felonies.**
- Addresses criminal background checks for all child care staff members, including staff members who don't care directly for children but have unsupervised access to children.
- Covers current state where employees reside, as well as states of previous residence for the past five years.
- Allows for appeal and review processes in Senate bill and places additional parameters on state data sharing to ensure privacy.

Authorization of Appropriations

The appropriations amounts identified within the language of CCDBG represent threshold amounts, and should not be viewed as accurate projections of funding levels needed to fully implement the bill. Each appropriations cycle, ECEC will work with federal agencies and advocacy coalitions to continue to push Congress for increased

funding to ensure states have the resources to maintain access and improve quality in compliance with CCDBG's requirements.

- FY 2015: level funded (\$2.36 billion)
- FY 2016: 5% increase (2.478 billion)
- FY 2017-19: 2.5% increase
- FY 2020: 3% increase

Program Coordination

- Requires coordination with other federal and state funded early childhood programs.
- Requires coordination with State Early Childhood Advisory Councils.
- Allows state funding of resource and referral systems to help families connect with quality child care, including community-based child care providers.
- Requires states to use 70% of funds used to support direct service costs.
- State plans extended to cover three, rather than two, years.

Waiver Authority

- At a state's request, the Secretary of HHS could approve a three-year waiver (with the option of a one-year extension) of CCDBG sanctions or a provision if there is a conflicting or duplicative CCDBG requirement, if a state has extraordinary circumstances, such as a natural disaster or financial crisis, or if the state legislature is unable to act in a timely way to implement a provision to comply with the law. Such a waiver request must show it would contribute to the state's ability to implement the law and not add to inconsistency with the law's objectives. *

Evaluation and Technical Assistance

- ½% for evaluation of the program's effectiveness in supporting access (specifically waiting lists) and quality: Includes requirement for report on overlapping programs in early childhood.
- ½% for federal technical assistance to states.

II. WHAT PROVISIONS ARE REQUIRED VERSUS ALLOWED?

Although HHS has yet to release official guidance to states on implementing the new law, it is helpful to note that there are some new provisions that are required, while others are designed to offer states opportunities for new flexibility.

Newly added key provisions to CCDBG that are required include:

- A 12-month eligibility re-determination period for CCDF families, regardless of changes in income (as long as income does not exceed the federal threshold of 85% of State median income) or temporary changes in participation in work, training, or education activities.
- *Provider payment practices*: Newly requires states to establish policies that

reflect generally accepted payment practices for child care providers, including (to the extent practicable) paying for absence days, and timely reimbursement for child care services.

Other newly added key provisions are allowed to states with flexibility in their implementation:

- Newly encourages states to delink provider reimbursement with unforeseen child absences to stabilize child care providers' business models.
- Allows States the option to terminate assistance prior to re-determination if a parent loses employment, however assistance must be continued for at least 3 months to allow for job search.
- Provides for a graduated phase-out of assistance for families whose income has increased at the time of re-determination, but remains below the federal threshold.

And, the new language around rate setting methodologies continues to require the action, but provides new flexibility:

- *Rate Setting*: Requires States to conduct a market rate survey, **or newly allows the use of an alternative methodology such as a cost estimation model**, and describe how payment rates will be established based on results of the survey or alternative methodology, taking into account cost of providing higher quality services.

III. WHAT ARE THE IMPLEMENTATION TIME FRAMES FOR VARIOUS PROVISIONS?

Overall, HHS will need to clarify implementation requirements based on their new state plan development timelines. However, a few provisions do carry implementation time frame requirements cited in the legislative language.

These include:

- *Consumer Education*: Monitoring and Inspection Reports are required one year after state requirements for Consumer Education become effective.
- *Health and Safety Inspections*: Newly requires annual, unannounced inspections of all licensed providers within two years.
 - A time frame is NOT specified for implementing annual fire, health, and safety inspections of license-exempt providers that receive assistance, with the exception of those caring only for family members.
- Newly strengthened requirements for criminal background checks for all providers funded by the programs must be implemented no later than the end of FY 2016.
 - States are required to execute criminal background checks within 45 days of the provider's request.

- *Compliance Penalties:* Requires HHS Secretary to report on state compliance no later than September 30th of the first full fiscal year after the law's enactment. States have 6 months from the time of the report to address compliance issues. A 5% reduction in funds penalty for failing to comply would go into effect for the first full fiscal year following the compliance specified timeframe.

IV. HOW WILL HHS PROVIDE ADDITIONAL GUIDANCE ON CCDBG IMPLEMENTATION?

It is unlikely that a formal rulemaking process will be used by HHS to provide guidance on implementing CCDBG. Instead, HHS has indicated that they will be working to issue clarifying guidance through Informational Memos and other announcements that are publicly released via the Federal Register (<https://www.federalregister.gov/>). ECEC will be monitoring this process and alerting you to new developments as they are released.

In the coming weeks, HHS will also be hosting a series of webinars and conference calls to discuss technical assistance needs. All HHS technical assistance resources will be posted here:

<http://www.acf.hhs.gov/programs/occ/ccdf-reauthorization>.

ECEC will have significant input in the development of HHS guidance and encourages you to email your questions to rlemma@ececonsortium.org so that we can begin compiling our feedback. ECEC will plan to forward a compilation of our questions and recommendations to HHS in early December. Areas that we know we will address include:

12 Month Eligibility

The language in the bill refers to redetermination of eligibility but not authorization. In some states this may mean that services to a child would still be interrupted due to reauthorization.

Three-Month Authorization Extension

States are struggling to interpret CCDBG's new provision that allows States the option to terminate assistance prior to re-determination if a parent loses employment, however requires that assistance must be continued for at least three months to allow for job search.

Inspection and Monitoring Requirements

Carries high costs to states. Guidance needed on how to minimize cost through technology, staffing patterns, etc.

QRIS-Related Activities

Many states are struggling to equalize provider investments to reach higher levels of quality with reimbursement levels. Some states are working to incentivize QRIS participation and quality improvement by proposing upfront reimbursement increases (i.e. once a program has committed to reaching the next level, they would receive the next tier

level of reimbursement to invest in getting there). HHS guidance should rely on specific state examples to suggest how this quality improvement action can be implemented.

V. CCDBG IS A NEW LAW—NOW WHAT?

With the recent mid-term elections yielding a radically changed political landscape, implementation of the reauthorized CCDBG will take place within a newly reconfigured leadership context at the federal and state levels. New decision makers in Congress and in many state houses, legislatures, and agencies across the country will be responsible for providing the resources and oversight that will shape CCDBG's implementation over the next several years. ECEC will continue to play a critical advocacy role in that process.

Funding CCDBG Implementation

Securing adequate funds at the federal and state levels to support the bill's implementation is an immediate priority. Although, the bill is authorized to fund the program at a level that represents a 16.5% increase over the next 6 years, the field must push for increased investments in CCDBG that allow states to effectively implement new provisions and continue quality improvement efforts. The federal budget is currently operating under a Continuing Resolution that will expire on December 11th. ECEC is working now to advocate to federal lawmakers for the need to invest in CCDBG in order to realize the full benefits of the additions and improvements enacted by its recent reauthorization.

Technical Assistance to Support CCDBG Implementation

In addition to increased fiscal investment, implementing CCDBG will require ongoing support and technical assistance to states, as well as to administrators and practitioners within the field. HHS will set the stage for this ongoing support and assistance as they roll out official guidance around policy and program implementation during the next weeks and months.

While ECEC provides you with information and analysis specifically designed for our membership, other national and state policy and advocacy organizations are also hard at work producing additional resources to support the field around CCDBG implementation. As these resources become available in the coming weeks, look to ECEC to highlight and compile them for you. CCDBG technical support and assistance resources will be posted on our website under the Resources tab at <http://www.ececonsortium.org/issues-in-focus/other-resources/>.