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Early Care and Education



NATIONAL CONFERENCE of STATE LEGISLATURES

## 2014 Child Care and Development Block Grant Reauthorization Act: Implications and Opportunities for State Legislatures

In November 2014, Congress reauthorized the Child Care and Development Block (CCDBG) grant for the first time since 1996. The new law gives legislators an opportunity to take leadership not only to implement the required policy changes to comply with the reauthorization but also to weigh in on designing a child care system that meets the needs of children and their families as well as how to connect this work to the broader early learning efforts in their states.

This policy primer provides background on and a snapshot of the major provisions of CCDBG Act of 2014 as well as information on state flexibility and opportunities, recent state legislative examples and actions currently being considered by states.

### Background

The Child Care and Development Block Grant (CCDBG), created in 1990 and amended in 1996, is the primary source of federal funding to states to provide child care assistance for low-income families. Funds are allocated to the states based on a formula that takes into consideration the number of young children in a state as well as the number of children who are in families earning low incomes. The program is funded through a federal-state partnership to provide subsidies to offset the high cost of child care for low-income working families, including families receiving public assistance. The federal law is very broad and gives states significant latitude regarding how federal and state child care funds are spent and how to implement policies. States have the flexibility to set program eligibility, co-pays, reimbursement rates, as well as design initiatives to improve quality. In addition, state agencies set program requirements and enforcement policies based on authority granted to them by state legislatures that are set in state statute. Prior to reauthorization of CCDBG, the law did not require background checks for child care providers, set minimum training requirements for personnel, require regular inspections nor require minimum protections for children.



### Reauthorization of 2014: Changes to the [Law](#)

The Child Care and Development Block Grant (CCDBG) Act of 2014 was signed into law on Nov. 19, 2014 with overwhelming bipartisan support in the House and Senate. It was the first reauthorization to the law in 18 years, modernizing and updating provisions so they are better aligned with current practice and research.

The new law adds specific requirements for states in child care quality, safety and access, and provides states with further flexibility in some areas. It makes improvements to the health, safety and quality of child care, while also providing better and sustained access to child care assistance for low-income working families. The law expands requirements for state licensing, consumer and provider education information, training and professional development, inspections of programs, criminal history background checks, child-to-provider ratios, health and safety, child abuse reporting, protection for working parents, priority for low-income populations, coordination

with other programs and the needs of children in child care services during an emergency and statewide child care disaster planning. The law also provides funding for technical assistance to states on implementation and requires states to ensure that child care providers receive technical assistance on business practices. Funding is also authorized for an evaluation of the law's effectiveness at supporting child care quality and supply.

## State Flexibility

The law includes a number of significant changes for states and more detailed requirements and options. Some of these changes will be straightforward and others will be more complex and require more time to implement, depending on the number of changes a state will need to make. Implementation of the law generally occurs in phases over the next five to six years. For more information, an implementation time table is provided below.

The federal agency that administers the CCDBG, the Office of Child Care under the U.S. Department of Health and Human Services, Administration for Children and Families, extended the deadline for states to submit their Child Care and Development Fund State Plans for FY 2016-2018 from July 2015 to March 2016. This extension will give some relief to states as they consider the best way to implement the major changes in the Child Care and Development Block Grant Reauthorization. HHS will provide guidance and regulations to states to support their implementation process.

While the bill is more detailed and provides much more guidance than before, it does provide for state flexibility in the areas of setting provider payment rates and quality options. Specifically, states will have flexibility on whether to continue to conduct the standard market rate survey to set provider payment rates or use a cost-estimation model (a possible 'truer' cost of care), which is being considered or used in a few states. Another area that allows for state flexibility is the statute's explicit authority for states to continue to create tiered reimbursement policies. According to the 2012-2013 CCDF Plans, 32 states and territories indicated that they provide tiered or differential rates for higher quality.

Parental choice is also a significant part of the reauthorization. Families who receive a child care subsidy may choose from a mixed delivery system: center-based or home-based-care. States must also allow parents to choose care that is contracted through the state or receive a voucher that they can use at any licensed center or registered family child care home.

States also have options in terms of the quality set-aside. States must conduct an assessment of the state's child care quality needs and align their quality options with the assessment results. Using the results from the needs assessment, states must choose at least one of the following:

- Training and professional development.
- Improvement of early learning guidelines.
- Implementation of a quality rating system.
- 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.
- Any other quality improvement activity that can be measured.

## Health and Safety Requirements for Child Care Providers

The new law:

- Requires states to establish health and safety requirements in 10 specific areas.

- Requires child care providers serving children receiving assistance through the federal child care program to receive pre-service and ongoing training on such topics.
- Requires states conduct specified, comprehensive criminal background checks for all child care staff members.
- Requires states to certify child care providers complying with child abuse reporting requirements.
- Requires states to conduct pre-licensure and annual unannounced inspections of licensed child care subsidy providers and annual inspections of license-exempt child care subsidy providers.
- Requires states to establish qualifications and training for licensing inspectors and appropriate inspector-to-provider ratios.
- Requires states have standards regarding group size limits and appropriate child-to-provider ratios.
- Requires emergency preparedness planning and statewide disaster plans for child care.

In recent years, states have been moving in the direction of ramping up health and safety requirements. For example, by 2011, 37 states required that infants be placed on their backs to sleep in centers and family child care



homes, and at least a third of all states required a comprehensive background check that includes federal and state criminal records using fingerprints, a check of the child abuse registry and the sex offender registry, according to Child Care Aware, an association of state and local child care resource and referral agencies.

Examples of similar recently enacted laws on health and safety requirements in child care include the following: in 2013, **Georgia** enacted legislation [HB 350](#) to require a fingerprint check against federal records, which became effective in January 2014. **Oklahoma** passed [legislation](#) in 2011 requiring a fingerprint check of FBI and state records. **Kentucky's** [HB 449](#) (2012) requires family child-care centers and homes to establish written evacuation plans for situations that pose health or safety risks to children.

## Transparent Consumer and Provider Education Information

The new law:

- Requires states to make available electronically, easily accessible provider-specific information showing results of monitoring and inspection reports, including deaths, serious injuries, and instances of substantiated child abuse that occur in child care settings each year.
- 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.

Examples of similar recently enacted legislation on consumer and provider education information: **California's** 2014 [Child Day Care Facilities Act](#) requires the Department of Social Services to post licensing information monthly on its website for child day care facilities, including among other things, the number of citations, substantiated and inconclusive complaint inspections and noncompliant inspections. **Missouri's** [SB 869](#) (2014) requires the state Department of Social Services to establish a publicly available website that gives specific provider information such as health and licensing requirements, inspections and history of violations and

compliance actions taken. The Department must also establish a transparent system of quality indicators to provide parents a way to differentiate between child care providers available in their community, establish a parent complaint hotline, and minimum building and facilities requirements that child care providers must meet prior to receiving federal funds. **Kansas** passed a [law](#) in 2010 that eliminated the registered family child care home category and transitioned into child care homes being licensed. The law also required developing an online information dissemination system to include an online child care application for both licensing and subsidy participation.

## Eligibility and Access Policies

The new law:

- Establishes a 12-month eligibility re-determination period, regardless of changes in income (as long as income does not exceed the federal threshold of 85 percent of state median income) or temporary changes in participation in work, training, or education activities.
- Allows states the option to terminate subsidy 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.
- Requires procedures for enrollment of homeless children to promote access to services for homeless families.
- Requires states, to the extent practicable, to de-link their child care reimbursement rates from unforeseeable absences, such as illnesses, to provide greater stability to child care providers, which will help them be able to continue to serve subsidized children.

According to Child Care Aware, **California**, **Colorado** and **Michigan** are three of the 25 states that already allow a 12-month eligibility re-determination period for families receiving child care subsidies. Sixteen states and the **District of Columbia** provide tiered income eligibility although there is state variation in the entry and exit eligibility thresholds. Sixteen states allow a job search as an approved activity as long as a parent is already approved for a child care subsidy.

**Colorado** [HB 1317](#) passed during the 2014 legislative session made numerous changes to the child care subsidy system including: tiered reimbursement rates for providers; a tiered copay structure to offset the “cliff effect”; set the child care exit income eligibility threshold at a higher level than entry eligibility and authorized eligibility redetermination to occur every 12 months. **Louisiana’s** [HB 249](#) (2014) enacted the Improving Access to Child Care for Homeless Louisiana Families Act that helps homeless families to access quality child care and to reduce the incidence of developmental delays and physical and mental health problems among homeless children.

## Child Care Quality Improvement

The new law:

- Phases-in an increase in minimum quality set-aside from 4 percent to 9 percent over a 5-year period. In addition, requires states to spend a minimum of 3 percent to improve the quality of care for infants and toddlers.
- Requires states to spend quality funds on at least one of 10 specified quality activities, which include developing tiered quality rating systems and supporting statewide resource and referral services.
- Requires establishing professional development and training requirements to improve knowledge and skills of child care providers.

- Requires states to implement Early Learning and Development Guidelines from birth to kindergarten entry.
- Includes provisions on social-emotional health of children.

As of 2012, 32 states had a tiered reimbursement system paying higher rates to child care providers that provide a higher level of quality. In 2013, the Nebraska Legislature passed [L 507](#) that requires the development and implementation of a tiered quality rating and improvement and reimbursement rates system with basic licensing compliance designated at first step or level on the QRIS. Other recent examples of enacted legislation on child care quality improvements include: **Indiana's** [HB 1036](#) (2014) requires child care providers who receive federal Child Care and Development Fund payments to annually obtain at least 12 hours of approved continuing education on the educational development, care, and safety of children and child maltreatment training within three months of employment. **Minnesota** passed [legislation](#) in 2012 stating that child care providers who meet the best practice standards for social and emotional child development will be reimbursed at a higher rate.

### Waiver

At a state's request, the Secretary of HHS could approve a three-year waiver of CCDBG requirements or a provision if there is a conflicting or duplicative CCDBG requirement identified by a state; 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.



### Federal Appropriation

The Act authorizes federal appropriations per year for each of fiscal years 2015 through 2020. Such funding is critical to states because, to the extent that that states must amend their plans and activities to comply with the reauthorization law, they could incur additional costs.

The levels below are the authorized funding amounts. Congress must still determine the actual funding appropriation each year. These funding levels only include federal discretionary funding, and not federal mandatory funding, state maintenance of effort, or state matching funds for child care. For FY2014 CCDBG discretionary funding was \$2.36 billion. Federal Discretionary Funding Authorization Levels:

- \$2.36 billion for FY 2015
- \$2.48 billion for FY 2016
- \$2.54 billion for FY 2017
- \$2.60 billion for FY 2018
- \$2.67 billion for FY 2019
- \$2.75 billion for FY 2020

Federal law also provides states with \$2.9 billion in mandatory funding, in addition to the discretionary amounts.

### States Take Action

The implementation for the CCDBG Act of 2014 will happen over the next five years (see timeline chart below). Already, the 2015 state legislative sessions show an increase in bill activity related to state child care programs, and presumably in response to the reauthorization of CCDBG. States have been introducing and passing child

care-focused legislation addressing the full spectrum of issues from health and safety standards, comprehensive criminal background checks and fingerprinting, quality improvement initiatives, family eligibility requirements and more.

**California, Florida, Oklahoma, Pennsylvania and South Carolina** are among a handful of the states that have introduced legislation to require annual inspections of child care facilities and non-public school prekindergarten programs. Legislation relating to criminal background checks and fingerprinting is being addressed in **North Dakota, New York, South Carolina, and Tennessee**. **Maryland's** and **Massachusetts'** and **Minnesota** legislatures have pending bills to prioritize child care assistance for homeless families. **Colorado, Connecticut, Iowa, Maine, Nebraska, New York, Oklahoma, and Rhode Island** are just some of the states working on improving the quality of their state child care programs.

Changes in eligibility policy are being considered in numerous states including but not limited to: **Connecticut, Indiana, Iowa, Nebraska, Oregon, and Washington**. **New Mexico** proposed legislation to create a task force to study the cost and implementation subsidy policies under the new law.

The states mentioned above are not inclusive of all states introducing child care related legislation. For a full list of pending and enacted legislation to date please visit the NCSL Early Care and Education [database](#).

State will encounter opportunities and challenges as they implement the provisions in the new law. These opportunities and challenges will vary from state to state depending on their existing child system. State legislatures will continue to look at these issues over the coming years.

## Policy Questions and Considerations

Child care subsidy and licensing policies vary among states. Legislators can work with the state's child care administrator to identify policies already in place in statute or in regulation and to ensure that its FY 2016-2018 state child care plan is in compliance with the new federal requirements. To determine this, legislators can ask the following questions.

1. Does my state have health and safety requirements for child care providers already in place? If not, what changes are being proposed in the state CCDBG plan?
2. Does my state conduct comprehensive criminal background checks for all child care providers? If not, what changes are being proposed in the state CCDBG plan?
3. What is my state's current and planned "minimum quality set-aside" spending on child care?
4. What professional development and training requirements to improve the knowledge and skills of child care professionals is required by my state?
5. What are my state's subsidy policies regarding child care eligibility and re-determination of child care services?
6. What does my state set-aside for child care infant and toddler spending?
7. Does my state provide accessible child care consumer and provider education information?
8. What is my state's child care provider reimbursement policy? Specifically, does my state de-link child care reimbursement rates from foreseeable absences, to the extent practicable, and if not, how will it do so, according to the state plan?

## Implementation Timeline

The CCDBG reauthorization puts into place numerous new program requirements for states to implement. The table below lists effective dates for many of the provisions. Where the law did not specify a date, some new requirements became effective upon the law's date of enactment. Implementation efforts will vary in states depending on the number of changes a state needs to make. Some states and territories will need time to enact changes through their state legislative or rulemaking processes. States who have a justification for not meeting the effective date are allowed to request additional time for implementation of these provisions when submitting their state plan for 2016-2018.

CCDF-ACF-PI-2015-02 ATTACHMENT: Timeline of Effective Dates for States and Territories: Child Care and Development Block Grant (CCDBG) Act of 2014							
New CCDF Program Requirements	FY 2015 10/01/2014 – 9/30/2015	CCDF State & Territory Plan (3-yr) FY 2016-2018			CCDF State & Territory Plan (3-yr) FY 2019-2021		
		FY 2016 10/01/2015 – 9/30/2016	FY 2017 10/01/2016 – 9/30/2017	FY 2018 10/01/2017 – 9/30/2018	FY 2019 10/01/2018 – 9/30/2019	FY 2020 10/01/2019 – 9/30/2020	FY 2021 10/01/2020 – 9/30/2021
Minimum Quality Spending Requirement (658G(a)(2)(A))	<i>Planning/Implementation</i>	at least 7%	at least 7%	at least 8%	at least 8%	at least 9%	at least 9%
Infant and Toddler Spending Requirement (Additional 3% quality set-aside) (658G(a)(2)(B))	<i>Planning/Implementation</i>		at least 3%	at least 3%	at least 3%	at least 3%	at least 3%
Criminal Background Checks (658H(j))	<i>Planning/Implementation</i>			<b>Compliance by 9/30/2017:</b> Not later than the last day of the 2 <sup>nd</sup> full fiscal year after enactment (states may request an extension of not more than 1 year).			
Monitoring of Licensing and Regulatory Requirements (658E(c)(2)(K))	<i>Planning/Implementation</i>		<b>Compliance by 11/19/2016:</b> Not later than 2 years after the date of enactment.				
Posting Results of Monitoring and Inspection Reports (Website) (658E(c)(2)(D))	<i>Planning/Implementation</i>			<b>Compliance by earlier of 11/19/2017 or 1 year</b> after monitoring in place.			
State compliance with Priority for Services (658E(c)(3)(B)(ii))	<i>Planning/Implementation</i>		<b>Compliance by 9/30/2016:</b> Not later than September 30 of the first full fiscal year after the date of enactment (ACF will make an annual determination and report thereafter). The requirement to submit this report applies to ACF. However, prior to submission of this report, states will need to provide information to ACF regarding their compliance with priority for services.				
Other Requirements	<i>Planning/Implementation</i>	If a state or territory provides justification for why it cannot certify compliance with one or more of the requirements of the new law in its FY 2016-2018 Plan, ACF may allow the Lead Agency to submit a state-specific timeline for achieving compliance with such provision(s). We expect the need for additional time would be limited to provisions that require significant policy revisions or implementation and that the timeline for implementation would not exceed a 1-year period (i.e., September 30, 2016).					

Department of Health & Human Services, Administration for Children & Families, Office of Child Care-[Timeline](#)

## Conclusion

The reauthorization of CCDBG gives state legislatures an opportunity to examine more carefully the components of child care to promote a strong early learning system for their state. States are also connecting their work on child care to other early learning efforts to have a positive impact on the outcomes of young children.

## Additional Resources

- [Text of CCDBG Act of 2014 \(S. 1086\)](#). Reauthorizes the CCDBG program under the Child Care and Development Block Grant Act of 1990 (CCDBG Act) through FY 2020 at specified levels.
- [Office of Child Care Reauthorization Resources](#). The Office of Child Care has compiled and is frequently updating a list of key resources regarding the 2014 CCDBG Act.
- [NWLC Child Care and Development Block Grant Reauthorization: Changes To Previous Law](#). This chart compares the prior version of the law governing CCDBG with provisions of the reauthorization law.