

<h1>ACF</h1> <p>Administration for Children and Families</p>	<h2>U.S. Department of Health and Human Services</h2>	
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TO: State, Territorial, and Tribal Lead Agencies administering child care programs under the Child Care and Development Block Grant Act of 1990 (the CCDBG Act), as amended, and other interested parties.

SUBJECT: Clarification of policy regarding verification of the citizenship and immigration status of Child Care and Development Fund (CCDF) applicants when non-profit organizations determine eligibility for the CCDF program and when a child receives combined CCDF and Head Start services.

REFERENCES: The CCDBG Act; Section 418 of the Social Security Act; 45 CFR Parts 98 and 99; Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996; 63 FR 41662 – 41686; ACYF-PI-CC-98-08.

PURPOSE: This Program Instruction clarifies previous policy guidance and responds to inquiries received from a number of States regarding verification of the citizenship and immigration status of CCDF applicants.

BACKGROUND: Title IV of PRWORA requires programs offering Federal public benefits to verify the citizenship and immigration status of beneficiaries of program services. CCDF is considered a program providing Federal public benefits subject to this requirement. In 1998, the Child Care Bureau issued a Program Instruction titled, “Clarification of ‘Federal public benefit’ Regarding Child Care and Development Fund Services” (ACYF-PI-CC-98-08). This guidance established that for implementing verification requirements mandated by title IV, only the citizenship and immigration status of the child is relevant for eligibility purposes. The Program Instruction also provided guidance on exemptions to verification requirements for non-profit charitable organizations and for agencies providing combined CCDF and Head Start services.

POLICY: **Non-Profit Organizations**
Section 432(d) of PRWORA, as amended, provides that, “a nonprofit charitable organization, in providing any Federal public benefit...or any State or local public benefit...is not required under this chapter to

determine, verify, or otherwise require proof of eligibility of any applicant for such benefits.” (8 USC 1642(d)). A Lead Agency may not require non-profit organizations determining eligibility in the CCDF program to verify citizenship and immigration status.

In ACYF-PI-CC-98-08, the Child Care Bureau stated that the exemption at section 432(d) of PRWORA does not apply where eligibility for services is determined by a governmental entity, but does apply if eligibility for CCDF services is determined by a non-profit charitable organization. The guidance did not clarify whether a CCDF Lead Agency would retain responsibility for verifying an applicant’s legal status in circumstances where the Lead Agency has selected a non-profit charitable organization to determine eligibility for CCDF services on the Lead Agency’s behalf, and the non-profit organization elects not to verify citizenship and immigration status.

This Program Instruction clarifies that, while non-profit organizations are exempt from verification requirements mandated by title IV of PRWORA, this exemption does not release the Lead Agency from its responsibilities to assure that only individuals “eligible” for services receive them. If a non-profit organization contracted by the Lead Agency elects not to verify the citizenship and immigration status of applicants for CCDF benefits, the Lead Agency retains this responsibility and therefore must establish procedures for verification. A Lead Agency may want to consider this fact when entering into an agreement with the non-profit charitable organization. A Lead Agency could choose to enter into contracts only with non-profit organizations that are willing to verify citizenship and immigration status when determining eligibility for CCDF services.

Head Start Programs

The Head Start and Early Head Start programs have been determined not to provide Federal public benefits because non-post secondary education benefits were omitted from the statutory definition in title IV of PRWORA. Therefore, Head Start providers are not required to implement PRWORA’s verification requirements. In ACYF-PI-CC-98-08, the Child Care Bureau stated that verification requirements do not apply when a child receives Head Start services that are supported by CCDF funds and are subject to Head Start Performance Standards. The guidance also stated:

“The policy...applies when services are subject to the Head Start Performance Standards and are supported by combined Head Start/CCDF funding, or are provided by service arrangements with child care agencies, or when an agency that operates a Head Start program also provides a separate program for children that is entirely supported by CCDF funds.”

The 1998 guidance broadly implied that a Head Start grantee that operates a Head Start program and also administers a separate program for children entirely supported by CCDF funds is not subject to verification requirements. This new Program Instruction clarifies that only when an agency provides child care services that are subject to the Head Start Performance Standards *and* supported by combined Head Start and CCDF funding, do verification requirements mandated by title IV not apply. If a Head Start grantee also administers a separate program for children (not subject to Head Start Performance Standards) entirely supported by CCDF funds, this separate CCDF program would not be exempt from PRWORA's verification requirements. This is a more narrow interpretation than what was stated in ACYF-PI-CC-98-08.

Verification Procedures

A Lead Agency has flexibility to establish procedures for verifying an applicant's citizenship and immigration status when determining eligibility for CCDF services, but its procedures should be in accordance with Department of Justice requirements for verifying eligibility for "Federal public benefit" programs found in the November 17, 1997 Department of Justice Notice, "Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996." (62 FR 61344). This guidance outlines procedures by which a State or local government can verify whether an alien applying for a State or local public benefit is a qualified alien or citizen. If an audit or review determines that the citizenship or immigration status of a CCDF recipient was not properly verified, or that an ineligible recipient (due to their immigration status or otherwise) received CCDF assistance, such funds would be considered misspent, and subject to disallowance.

ADDITIONAL QUESTIONS:

Additional questions should be directed to the appropriate Regional Office (see attached list).

ATTACHMENTS:

1. Child Care Bureau Program Managers in ACF Regional Offices

/s/

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