

# TRIBAL OVERVIEW: CHILD CARE AND DEVELOPMENT FUND NOTICE OF PROPOSED RULEMAKING

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On July 13, 2023, the Department of Health and Human Services, Administration for Children and Families formally proposed to amend the Child Care and Development Fund (CCDF) regulations (45 CFR Part 98) through a Notice of Proposed Rulemaking (NPRM) published in the Federal Register. These proposals include new requirements and flexibilities for Tribal CCDF Lead Agencies. Tribal Leaders, Tribal CCDF Lead Agencies, Tribal child care providers, Tribal families, and other stakeholders in Tribal CCDF programs are encouraged to participate in the public comment period for this proposed rule. The full rule can be found in the [Federal Register](#).

In order to be considered, written comments must be received on or before August 28, 2023 and include the Docket number (ACF-2023-0003) and/or RIN number (0970-AD02). Please clearly identify the issue(s) on which you are commenting and provide the page number, identify the column, and cite the relevant paragraph/section from the Federal Register document (e.g., On page 10999, second column, §98.20(a)(1)(i)). Please do not submit confidential or otherwise sensitive or protected information as all comments are posted for public viewing. If you wish to remain anonymous, enter “N/A” in the required fields.

A Tribal Consultation is scheduled for July 20, 2023.

The proposed rule would lower child care costs for families, increase parents’ child care options by improving provider payment practices and rates, and make enrollment easier and faster for families. It also proposes some changes to Tribal construction rules.

## LOWER FAMILY COSTS FOR CHILD CARE

Child care costs can be a significant financial strain for families and disincentivize work, training, and education. The proposed rule would:

- **Prohibit Family Co-payments That Are a Barrier to Child Care Access:** Establishes that family co-payments cannot be more than 7 percent of a family’s income.
- **Increase Tribal Flexibility to Waive Parent Co-Payments:** Exempts all Tribal Lead Agencies from the requirement to establish a sliding fee scale. This means that Tribal Lead Agencies may choose to exempt families from co-payments.

## IMPROVE PARENT OPTIONS FOR CHILD CARE AND STRENGTHEN PROVIDER PAYMENT PRACTICES

Good payment practices to providers can help stabilize operations for participating providers and increase parents’ child care options so they can find child care when and where they need it. For Tribes that use a subsidy approach, the proposed rule would:

- **Improve Payment Practices:** Tribal Lead Agencies would need to make prospective payments to providers based on enrollment or use an alternative equally stabilizing approach.
- **Encourage Tribes Paying the Established Subsidy Rate:** Encourages Tribes to pay child care providers caring for children receiving CCDF subsidies the Tribe's established subsidy rate in order to better account for the actual cost of care, even if that amount is greater than the price the provider charges parents who do not receive subsidy.

## MAKE FAMILY ENROLLMENT EASIER AND FASTER

Child care is essential for parents to work, go to school, or get training, but lengthy enrollment processes can disrupt parents' plans and lead to missed opportunities. For tribal lead agencies that do not use categorical eligibility, the proposed rule would:

- **Encourage Faster Eligibility:** Encourages enrollment policies to consider a child presumptively eligible for subsidy prior to full documentation and verification.
- **Simplify Verification:** Encourages Tribes to use a family's enrollment in other public benefits program or documents or verification used for other benefit programs to verify eligibility for CCDF.
- **Minimize disruptions to families:** Requires Tribes to implement eligibility policies and procedures that minimize disruptions to parent employment, education, or training opportunities.

## INCREASE FLEXIBILITY FOR TRIBAL CONSTRUCTION

Tribes may already use CCDF funds for major renovation and construction of child care facilities. The proposed rule would make changes to improve flexibility for Tribes:

- **Revise Major Renovation Definition:** Proposes revising the definition of *major renovation* to be based on the cost of renovations, rather than a description of structural change or alterations to the facility. Specifically, we propose setting the threshold at \$250,000 for centers and \$25,000 for family child care homes (with annual adjustments based on inflation), where renovations exceeding these amounts would be considered *major* renovations.
- **Extend Construction and Major Renovation Liquidation Period:** Proposes to extend the deadline for liquidating Tribal construction and major renovation funds from three years to five years (i.e., the end of the fourth year following the year that the grant is awarded).

## EXEMPTIONS FROM STATE PROPOSALS

- **Consumer Education:** NPRM proposes to require States and territories to post online current information about their sliding fee scales for parent co-payments. Tribal Lead Agencies would be exempt from this proposed requirement.
- **Grants and Contracts:** NPRM proposes to require states and territories to use grants and contracts for direct services to increase the supply of child care for infants and toddlers, children with disabilities, and children who need care during nontraditional hours. Tribal Lead Agencies would be exempt from these new proposed requirements.

#### **P.L. 102-477 TRIBES**

- **102-477 Program:** Tribes continue to have the option to combine their CCDF funds with other employment and training related Federal grant funds under a plan authorized by the Indian Employment, Training and Related Services Demonstration Act of 1992 (Public Law 102-477). P.L. 102-477 programs are required to follow the CCDF regulations, with the exception of OCC reporting requirements, and are subject to the new and revised provisions in this proposed rule. 102-477 grantees may seek waivers from CCDF requirements.