

HOW THE NEW CCDF PROPOSED RULE WOULD IMPACT TRIBES

Background

The Child Care and Development Fund (CCDF) is a federal program that provides approximately \$5 billion to States, Territories, and Tribes to help low-income working families obtain quality child care and to improve the quality and supply of child care for all families. Tribes receive 2 percent of the funding, or over \$100 million. The CCDF program has far-reaching implications for America's poorest children with approximately 1.6 million low-income children receiving child care subsidies per month, with Tribes serving more than 30,000 children.

The new proposed rule would provide the first comprehensive update of CCDF regulations since 1998. The changes have the twin goals of promoting families' economic self-sufficiency by making child care more affordable, and fostering healthy child development and school success by improving the quality of child care. The reforms are needed to improve accountability broadly across many areas of the CCDF program, but are especially focused on ensuring children supported by CCDF funds are in safe, healthy, quality child care, and empowering parents with transparent information about the child care choices available to them.

Tribal Lead Agencies are subject to all the CCDF regulatory requirements, including the proposed provisions in the NPRM, unless specifically exempted. ACF will work with Tribes as they identify appropriate Tribal approaches to implementation of the proposed rule. We look forward to comment from Tribes. Below is an overview of how the NPRM will affect Tribal CCDF programs.

We hope you find this overview helpful, but it is only intended to provide summary information on some key points. For complete context and understanding, we encourage everyone to read the entire NPRM, published in the Federal Register (<https://federalregister.gov/a/2013-11673>) on May 20, 2013. Comments about the NPRM can be submitted to [regulations.gov](http://www.regulations.gov)¹ during the public comment period, which is open until August 5, 2013.

New and Revised Provisions Specific to Tribal Lead Agencies

Immunizations: The NPRM proposes that Tribal Lead Agencies would now need to meet the existing immunization requirements that children receiving CCDF are age-appropriately immunized. The minimum tribal standards issued by HHS address immunization in a manner that is consistent with the requirements included in this proposed rule. Tribes would be able to exempt the following children from the immunization requirement:

- Children cared for by relatives;
- Children who receive care in their own homes;
- Children whose parents object on religious grounds; and
- Children whose medical condition requires that immunizations not be given.

Quality Expenditures: The proposed rule would require all Tribes to spend at least 4 percent of their total CCDF expenditures on quality improvement activities. Currently, this requirement only applies to larger Tribes, States, and Territories. There are a wide range of quality improvement activities that Tribes have the flexibility to implement, including training for child care providers or small grants to improve health and safety. ACF plans to provide technical assistance to help Tribes determine which current activities may count towards meeting the 4 percent quality requirements, as well as identify new opportunities to invest in the quality of the program.

Exempt and Non-Exempt Tribes: The proposed rule would continue to exempt smaller Tribes from operating a certificate program. It provides notice of our intent to raise the threshold for what is considered an exempt Tribe, from \$500,000 to \$700,000.

¹ http://www.regulations.gov/#!documentDetail;D=HHS_FRDOC_0001-0496.

Base Amount: The NPRM provides notice of our intent to increase the base amount of funding that each Tribe receives as part of its Discretionary fund award from \$20,000 to \$30,000.

New and Revised Provisions for All CCDF Lead Agencies

Tribal Lead Agencies are generally subject to the new and revised provisions in this proposed rule. These new and revised provisions include, but are not limited to:

Improving Health and Safety: Tribal Lead Agencies would be required to meet the proposed health and safety revisions, including, but not limited to, comprehensive background checks on child care providers, specific pre-service and orientation training on health and safety, and on-site monitoring. Tribes may comply with the proposed new health and safety requirements by adopting and implementing components of the minimum tribal standards issued by HHS, or by developing and implementing their own tribal child care standards. The minimum tribal standards issued by HHS are generally consistent with the proposed revisions.

The rule would require Tribes to designate a hotline for parents to submit complaints about child care providers. Tribes would be required to conduct an unannounced visit in response to any complaint pertaining to the health and safety of children receiving CCDF services. Tribal Lead Agencies would have to require providers serving CCDF children to report serious injuries or deaths of children occurring in child care.

Consumer Education: Tribal Lead Agencies would be required to meet the proposed consumer education provisions, which require Lead Agencies to collect and disseminate to parents information that will promote informed child care choices, including provider-specific information about health and safety compliance and violations. Consumer education would also have to include transparent quality indicators to provide parents with a way to differentiate the quality of child care providers. Tribal Lead Agencies have flexibility to implement a system of quality indicators that meet their specific needs.

Continuity of Care: Tribal Lead Agencies would be required to meet new provisions aimed at providing continuity of services to children and families, including a 12 month period for redetermining eligibility, and allowing services to continue during a period of job search when a parent loses her job. Tribes would also be allowed, at their option, to consider a child eligible between redeterminations as long as requirements were met on the day of eligibility determination.

Tribal Exemptions from New Provisions

Exemption from Consumer Education Website: The proposed rule would exempt Tribes from the proposed provision that requires States and Territories to post provider-specific information to a user-friendly, easy to understand website as part of its consumer education activities. Tribes would be required to meet the other consumer education provisions including the use of a transparent system of quality indicators and giving parents receiving CCDF subsidy information about the provider they chose.

Exemption from Annual Assessment of Serious Injuries and Death in Child Care: While Tribes would have to require providers to report serious injuries and deaths that occur in child care, they are exempt from an annual assessment which is required of States and Territories.

Exemption from Grants and Contracts: The proposed rule would exempt Tribes from the proposed provision that requires States and Territories to use some grants or contracts for direct services in areas where there is limited supply of child care.

P.L. 102-477 Tribes

Tribes continue to have the option to consolidate their CCDF 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 ACF reporting requirements, and are subject to the new and revised provisions in this proposed rule. 102-477 grantees may seek waivers from CCDF requirements.