

TRIBAL OVERVIEW: CHILD CARE AND DEVELOPMENT FUND FINAL RULE

On March 1, 2024, the Department of Health and Human Services, Administration for Children and Families published updates to the Child Care and Development Fund (CCDF) regulations (45 CFR Part 98) through a Final Rule published in the Federal Register. While Tribal CCDF Lead Agencies are exempt from most of the new requirements in this Final Rule, there are several important new flexibilities for Tribes related to construction, family co-payments, and provider payment practices.

Specifically, this final rule supports Native families by lowering child care costs and making enrollment easier and faster. The final rule also provides increased flexibility for Tribal Lead Agencies on construction renovations and spending deadlines as well as approaches to provider payments. Tribal Leaders, Tribal CCDF Lead Agencies, Tribal child care providers, Tribal families, and other interested parties are encouraged to read this Final Rule and related resources. Unless explicitly stated in the Subpart I of the Final Rule, regulations in previous final rules remain in effect for Tribal Lead Agencies.

LOWER FAMILY COSTS FOR CHILD CARE

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

- **Increases Tribal Flexibility to Eliminate Parent Co-Payments:** Allows Tribal Lead Agencies to cover any parent child care co-payments by exempting all Tribal Lead Agencies from the CCDF requirement to establish a sliding fee scale.
- **Prohibits 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 FLEXIBILITY FOR TRIBAL CONSTRUCTION

Tribes may already use CCDF funds for major renovation and construction of child care facilities. The Final Rule makes changes to improve flexibility for Tribes:

- **Revise *Major Renovation Definition*:** Revises the definition of *major renovation* to be based on *both* the cost of renovations and the extent of alterations to the facility. Specifically, renovations that cost over \$350,000 for centers and \$50,000 for family child care homes are considered *major* renovation when they make significant changes to the structure, function, or purpose of the child care facility. When renovations exceed these amounts but do *not* make significant changes to the facility's structure, function, or purpose, and improve the health, safety and/or quality of child care services, those renovations are considered *minor*. The cost thresholds for centers and family homes will be adjusted annually for inflation.
- **Extend Construction and Major Renovation Liquidation Period:** Extends the deadline for spending Tribal construction and major renovation funds by establishing a three-year obligation period and subsequent two-year liquidation period for construction and major renovation funds. Through this extension, the final rule provides five years for Tribal Lead Agencies to spend down construction and major renovation funds.

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 final 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, including at the first determination of a child or family's eligibility.

EXEMPTIONS FROM UPDATED STATE REQUIREMENTS

- **Consumer Education:** The Final Rule requires states and territories to post current information about their sliding fee scales for parent co-payments online. Tribal Lead Agencies are exempt from this requirement.
- **Grants and Contracts:** The Final Rule requires states and territories to use some grants or contracts for direct services to increase the supply of child care for infants and toddlers, children with disabilities, and children in underserved geographic areas. Tribal Lead Agencies are exempt from this new requirement.
- **Payment Practices:** The Final Rule requires states and territories to make prospective payments to providers based on enrollment. Tribal Lead Agencies are exempt from the established payment practices requirement.

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, except for OCC reporting requirements, and are subject to the new and revised provisions in this final rule.