



November 23, 2010

Administration for Children and Families  
Office of Administration  
Office of Information Services  
370 L'Enfant Promenade, SW  
Washington, DC 20447  
Attention: ACF Reports Clearance Officer

Re: Child Care and Development Fund Plan for States/Territories for FY 2012-2013 (OMB No. 0970-0114)

This letter responds to a request for comments on the proposed Child Care and Development Fund (CCDF) Plan for States and Territories in the September 24, 2010 Federal Register. The below comments are submitted by the American Public Human Services Association (APHSA) and its affiliate, the National Association of State Child Care Administrators (NASCCA). NASCCA represents the child care administrators for states, territories and the District of Columbia.

As an overarching comment, we are in agreement that the State Plan should provide a description of and an assurance that the programs administered by the Lead agency are in compliance with the federal requirements. However, we have reservations regarding the statement that only “minor corrections and modifications” were made to the proposed plan.

In many instances, the proposed plan goes well beyond the scope of ‘providing a description of’ and requires states to describe elements outside the requirements of the federal law and regulations. For instance, it requires that states report data that may be kept by entities other than the Lead Agency and requires that they develop performance measures beyond those developed by ACF (and derived from the required federal financial and case reports) for congressional accountability and reporting. While the latter is not in and of itself lacking merit, it is being requested of states without additional funding to support the data tracking, compiling, and analysis necessary for the activity to be meaningful.

### **General Comments Feedback:**

NASCCA appreciates the Office of Child Care’s efforts to update the CCDF state plan pre-print and is pleased to see the following revisions in the proposed plan:

- a new organization of the plan into three neat categories of Administration, Subsidy and Quality
- a new focus on Quality
- revised questions throughout the plan aimed at enhancing understanding of CCDF program similarities and differences among states and territories; and
- attention to CCDF goals, outcomes and accountability.

### **NASCCA is concerned about the following specific language and data elements in the proposed plan:**

- **Regulatory descriptors** – used throughout the document – because not all states’ regulatory structures and definitions are consistent, it is important to allow states to define who they regulate and what the terms mean. For example, in the State of Iowa, we would be unable to check any box when the listing only uses the term “licensed” to describe child care homes.
- **Data tracking** – many items in the plan assume data elements are available that simply are not tracked or kept in an electronic data system. While the plan provides a host of “not available” options, at what juncture is this going to become an expectation of states, and if so, will *additional* CCDF targeted funding for management information systems be forthcoming?

We appreciate OCC’s use of reflective questions to facilitate expanded thinking about CCDF program administration. However, we are concerned that the public (e.g. state legislators and other state and local stakeholders) will not be able to discern the difference between what is required by CCDF statute and regulations versus what is elective. Therefore we suggest that each question relating to a mandatory element of CCDF be labeled with the appropriate citation (i.e. statute and/or regulation source). Likewise, questions that are designed to encourage expanded thinking among administrators should be labeled appropriately.

### **Part 1: Administration**

- **1.2.2. Funds to Meet CCDF Matching and MOE** – This question insinuates that states are prepared to make a commitment about use of funds while they are only prepared to discuss their intentions. Non-committal language is needed to prevent states from

indicating a wish list and then being held to it. This will also help prevent states from having to submit numerous, unnecessary amendments to adjust their plans based on the realities that often unfold in a state's budget, especially during this uncertain economic atmosphere.

- **1.3.1. Administration of CCDF Program** – This question leaves out the option of “States/Territories supervised, county administered” where program policies are set by the State/Territory. Adding this option as another checkbox would eliminate the need for states and territories that meet this criterion to describe through written narrative associated with the “Other” checkbox.
  
- **1.4. CCDF Program Integrity and Accountability** – NASCCA seeks clarifications and revisions on this Program Integrity section:
  - Each State must participate in an error review and report process once every three years. This process is very detailed and includes a report that is submitted to the federal government. This new section of the CCDF Plan Pre-Print asks both error questions and fraud questions and duplicates the work states are already doing in the IAP error report process. While NASCCA strongly supports all efforts to improve program integrity in states, we do not believe that value is added by providing duplicative reports of the work that states are doing. We therefore support eliminating questions related to administrative error from the CCDF pre-print.
  - This section asks questions related to program integrity and seem to assume that the same strategies are in place to support program integrity in both the quality investments as well as the direct services investments. This is not the case in most states. The questions should specify which portion of the funds available is being described in the state's response.
  - If questions pertaining to administrative errors remain in the CCDF pre-print, we suggest a common definition of fraud and administrative error be included to ensure that every state can respond to the questions in this section with the same understanding. We also make the following suggestions if the fraud and administrative error topics remain in the pre-print document:
    - **1.4.1. Strategies to Ensure Effective Internal Controls** – This question seems to mirror the oversight required through the A133 audit process. All states are required to participate in this process and the results are reported to the federal government. This is an agency wide oversight process for all public programs. Many of these processes are overseen through the larger infrastructure of the agencies who are administering the CCDF programs. The A133 reports should be the source of any information submitted by states in this area.

- **1.4.2. Processes to Monitor Sub-Recipients** – This is a new plan requirement requiring lead agencies to have written agreements in place where the lead agency uses other governmental or non-governmental sub-recipients that administer the program. The regulations which are requiring this change should be cited along with this request for information.
  - **1.4.3. Activities to Identify Fraud and Administrative Errors** – This table asks that states describe the activities the Lead Agency has in place to identify fraud and administrative error to ensure program integrity. We suggest clarification of the type of activity that “conducts supervisory staff conduct reviews” to identify fraud and administrative errors includes. In addition if this level of detail is desired related to the IAP process, that process should be modified to require it and states should not be required to report separately in the CCDF preprint.
  - **1.4.4. Strategies to Investigate and Collect Improper Payments**–The wording of this question does not acknowledge that different strategies are used to **investigate fraud, investigate administrative errors, collect improper payments due to fraud, and enforce administrative accuracy**. We emphasize the “enforcement of administrative accuracy” since recovery of administrative funds is not required by federal regulations. We suggest that this question be revised into a row and column format so that states can indicate which individual strategies they intend to use for each of the four activities that are in bold above. It is also important to note that the wording of this question implies that states have the jurisdiction of determining fraud when it may be determined by another agency (e.g. judicial system).
  - **1.4.6. Actions Taken to Reduce Identified Improper Payments**–We believe this question should be eliminated since this information is already submitted and captured in the ACF 402 report.
  
- **1.5.1. Lead Agency Consultation Efforts** – The wording of 1.5.1 implies that all the listed choices are required. We recommend that the question clearly specify which are required agencies/entities with whom the Lead Agency must consult and which are not.
  
- **1.5.3. Innovative Practices Used in Plan Consultation and Public Hearing Process** – The terminology “innovative” may be interpreted in a variety of ways. What one state may deem as innovative may be a regular business practice in another. This is also an example of a request for information that reaches beyond the federal requirement. We suggest a checkbox format with a list of practices from which a state may choose, as well

include two additional boxes labeled: “None of these” and “Other/Explain” to allow for narrative.

- **1.6. Coordination Activities to Support the Implementation of CCDF Services** – We recommend adding a choice for partnering with school-age organizations.
- **1.6.1. Lead Agency Coordination Efforts** – This question lists additional entities that were not included in previous preprints and are not listed in the federal requirements. For example, “*State/Territory with Head Start Collaboration grant, and/or Statewide Advisory Council funded by the Head Start Act*” and “*Other Federal, State, local Tribal (if applicable), and/or private agencies providing child care and early childhood development services*”. We suggest removing “required” from the checkbox language where the coordination is not mandatory but where states can coordinate with these entities in the delivery of child care and early childhood services.
- **1.7.2. Core Elements Covered in the Emergency Preparedness and Response Plan** – This question seems to apply to those who marked the “Developed” box choice in 1.7.1 and is unlikely to apply to those who are carrying out planning activities. The question should add a “N/A” box. Also, a box labeled “Other” is needed to allow states the ability to describe additional activities that are not already provided in the list.

## **Part 2: Subsidy Program Administration**

- **2.1.3. Informing Parents about Assessment of Quality of Care** – We recommend removing “assessment” since the lead agency is not required to provide assessment. We recommend revising the question to ask what the lead agency is doing to educate parents regarding their quality child care choices.
- **2.1.6. Lead Agency’s Continuity of Care and Stability Policies** – This question implies that states are required, according to 98.30(a-e) Parental Choice, to promote continuity of care for children and stability for families according to the methods in the checklist. We suggest that this question be reworded to ask states to describe their policies that promote continuity of care for children and stability for families. The revised question can then list the items as examples of methods used to promote continuity of care for children and stability for families. This change will identify that there is no federal requirement and reduce potential negative impact from the public. A state’s response may also be misleading if some of the strategies are used in some cases and not for every child in care in the CCDF program.

- **2.1.8. Documentation Requirements and Verification Processes for Applicants** – This is a new question with a new requirement: a description of the Lead Agency documentation and verification process for applicants applying for child care assistance. The federal citations 98.70 (a) references information that must be gathered to complete the quarterly case-level report and 98.71 references content of the reports. We suggest revising the chart with a “yes/ no” question and, if “no,” describe your plan to verify applicant’s information and allow states to write a narrative. We suggest definitions of documentation and verification for additional clarification relating to this question.
- **2.1.9. Monitoring the Timeliness of Eligibility Determinations/Redeterminations** – The current question asks about timeliness of both determinations and redeterminations. However, the follow-up question for those who marked the “Yes” box only applies to determinations. We suggest a revision so that responses can be captured for instances of determinations as well as re-determinations. Or, if the intent is only to capture the timeliness of determination, we suggest removing the “re-determination” language from the question altogether.
- **2.2.4. Eligibility Criteria Based Upon Receiving or Needing to Receive Protective Services** – *Letter b* of this question only applies to those who marked “Yes” to *Letter a* of the question. We recommend adding a N/A box option so that it now has three options: Yes, No, and N/A.
- **2.2.5. Income Eligibility Criteria** – For *Letter b*, eligibility determination varies among states. Combinations of income deductions and income exclusion considerations are used to make this determination. Using one set of checkboxes to examine both deductions and exclusions is not feasible. Therefore, we suggest replicating the answer choices list that is already provided so that respondents can consider the list for both deductions and income exclusions.

On another note, we suggest the following improvements be made to the answer choices:

- Add “*child support paid out*” as an addition option that respondents can mark, and
- Separate “*adoption subsidies*” from “*foster care payments*”.

Finally, for *letter f* of this question, we would like to suggest that examples of SMI sources be made available so that states can know what sources are feasible to use.

- **2.3.4. Calculation of Family’s Contribution** – States may have more than one answer, we recommend adding a statement that instructs administrators to mark all that apply.

- **2.4.2. Using CCDF Funds for TANF Families, Families Attempting to Transition off TANF, and those At-Risk of Becoming Dependent on TANF** – We suggest adding a checkbox, “*guaranteed subsidy eligibility*”, to this question.
- **2.4.3. Waiting Lists** – It is our assumption that the answer choice titled “all families” refers to all families who are *eligible*. If so, we recommend that be clarified. In states where waiting lists exist, the status of the waiting list may change at different points in time. This response should not require a plan amendment if the status changes during the plan period.
- **2.5.3. Child Care Services Available through Grants or Contracts** – It is our assumption that the intention here is to capture how child care slots are purchased. If so, then this question only captures slots bought through grants or contracts. Slots can also be bought through vouchers. If the first assumption is true, we recommend replicating the answer choices, perhaps in the form of a chart, so that the question about buying slots can be asked in regard to grants, contracts and vouchers.
- **2.6.3. Tracking the Timeliness of Payments Made to Child Care Providers** – Not all states track payment timeliness. However, most have standards. We recommend adding an answer choice that asks states if a standard or policy exists.
- **2.6.4. Market Rate Survey** – In *letter b*, the sentence reads “Attach a copy of the Market Rate Survey instrument and a summary of the results of the survey.” We suggest adding **recent** to clarify that what is being sought are the results of the most recent survey.
- **2.6.5. Payment Rate Ceilings** – We suggest changing the language in the federal instructions from “current” to “most recent MRS” for consistency with question 2.6.4.(a). This item also requires states to include the range if the percentile is not the same for all rates. It is unclear what is being asked by the “range”. Further clarification is needed.

### **Part 3: Quality**

- **3.1.1. Compliance with Licensing Requirements** – NASCCA seeks clarifications and revisions on:
  - *Letter b* divides the types of care into center, group home, family child care, and in-home. This question includes relative child care under family care, and does not include a separate category for license exempt centers or persons (out of home). The Office of Child Care has historically used these categories, including license exempt, in distinguishing provider types. However, the questions that OCC is now asking is so specific that it makes it difficult for states to complete this section. When the question asks what we require of family child care, nearly

all states can only require things of licensed providers, not the license-exempt relative providers in the same category. We recommend that states be asked to describe who is exempt from licensure and what they require of these providers to participate in the CCDF program; and who is in the licensed (or regulated) category and what states require of them (either through licensing or CCDF participation).

- The definition of group homes is problematic because it differs among states. We recommend that the question ask if states have group homes and, if so, to define it; in the family child care section, delete “register or be certified” and replace with “eligible or enrolled” since not all states license families.
- This section only refers to licensing; not certifications for various types of care; we recommend including a text box so that states can provide footnotes for variance areas (e.g. for states that work with Tribes, it would be important to capture this information).

➤ **3.1.3. Compliance with Health and Safety Requirements** – Suggested revisions to *letter c*:

- This question needs an additional column to capture the frequency of on-going activities.
- On a separate issue, we recommend that this question differentiates between what is offered versus what is required.
- It may be useful to capture a state’s requirements for the number of mandatory hours in those cases where the state does not require a core curriculum.
- Finally, it is unclear as to whether the question asked requires a Yes/No response or narrative.

Finally, we seek to know if the question in *letter d* includes in-home providers.

➤ **3.1.4. Data & Performance Measures on Licensing and Health and Safety Compliance** – We have the following comments on the answer choices:

- In the second answer choice, we only know if they participate in the subsidy program. Many states have expressed that they do not have knowledge of this volume because if programs are legally exempt, they may never register. This type of info is collected for licensed homes.
- As to the fourth answer choice, the definition of injuries varies among states. States should be able to define injury.
- Finally, in the second to last answer choice, the language “dropped” is used. We recommend that the language be replaced with “revoked”.



- **3.1.5. Goals for Next Biennium: Licensing and Health and Safety System** – States support health and safety standards. However, this question seems to imply that each state will set goals to increase their licensing standards. Some states expressed hesitation in filling out this particular section, particularly when increasing licensing standards may not be supported by the state’s governor or legislature.
  
- **3.2. Establishing Early Learning Guidelines** – In some states, the Department of Education is the lead agency for the Early Learning Guidelines work and so CCDF cannot be held accountable. In the current state plan the term “voluntary early learning guidelines” is used. In the proposed plan, the word “voluntary” has been completely omitted. This is a significant omission because the early learning guidelines are still voluntary and optional on the part of states.
  
- **3.2.7. Data & Performance Measures on Early Learning Guidelines** – We recommend deleting this section since it is not the lead agency’s responsibility to perform evaluation.
  
- **3.2.8. Goals for the Next Biennium: Using Early Learning Guidelines** – Many states have expressed hesitation in identifying goals for the next biennium particularly when these goals are not supported by the state’s governor or legislature.
  
- **3.3. Creating Pathways to Excellence through Quality Improvement Activities** – This section currently has an over-emphasis on QRIS. We recommend the following revision for this heading: *Creating Pathways to Excellence for Child Care Programs through Program Quality Improvement Activities*. Instead of states having to answer QRIS specific questions, states can answer general questions regarding their specific quality activities to help parents choose quality settings.
  
- **3.3.1. Element 1- Program Standards** – The first answer box on ratios pertains to licensing – although the instructions say that the licensing questions are in sections 3.1 and 3.2.
  
- **3.3.4. Element 4– Quality Assurance and Monitoring** – We see licensing as a form of quality. We recommend adding a row on top of the “Other” box to help the chart reflect both the programmatic and the licensing aspects of quality.
  
- **3.4.2. Workforce Element 2– Career Ladder** – In *letter d*, we recommend reframing the question so that the question does not sound mandatory. The rewrite might simply ask: Who can participate? Is it mandated or voluntary?

- **3.4.3. Workforce Element 3- Higher Education Capacity** – We recommend reversing the order of *letters a* and *b* for a better logical flow. The new *letter a* should also receive a new additional answer choice “N/A” since not all states/territories are aligned with the option provided in the answer choices.
- **3.4.4. Workforce Element 4- Training & Technical Assistance Capacity** – We recommend deleting the word “certifications” from *letter b*.

### **Appendix 1:**

- General Feedback for Appendix 1:
  - We believe that technical assistance will be needed since this section would be a totally new requirement. States and territories will need specific information on how to go about setting targets, measuring and tracking.
  - This section requires states to establish new data collection systems and staffing to meet the increased reporting requirements. While recognizing the need for accountability, many states are not in a financial position to underwrite the associated costs for this reporting. Furthermore, the plan is on a biennial cycle, but the proposed reporting in the Appendix is annual, creating a burden on the states. Finally, the June 30th due date of annual reporting is exactly the same time as fiscal year end for most states. This is an exceptionally busy time for state staff, and adding the reporting burden at this time is problematic.
- We recommend striking the word “proportion” and instead replacing it with the word “percentage” in the following places:
  - Appendix 1.2.1 –*letter c*;
  - Appendix 1.2.2 –the bolded part of the main question, as well as *letters a, b, and c*; and
  - Appendix 2.2.1 –the bolded part of the main question, as well in the three places in the “Provider Categories” column in the chart;

We make this suggestion because we assume that the intent of each of these questions is to capture a percentage that describes the degree to which a subset group of providers has performed a task or accomplished an activity in comparison to the whole provider population. Providing or solving a proportion does not seem to be the right concept here.

- States and territories will need a common definition for the term “unrelated caregiver” that is found in the Appendix.
- The category “group home” is missing from 1.2.2 and 1.2.3 in the Appendix. We request clarification as to whether this omission is intentional.
- We recommend deleting Section 5.1 because states cannot accurately track this information. We find that there is great variety among states in the way that they track and monitor their funding expenditures. (We are not aware of any state that tracks

information according to data elements in the chart in 5.1.) For example, in a state where Technical Assistance is provided by the Resource & Referral organization, the entity does not likely bill the state according to the categories identified.

Thank you for considering our comments. If you have any questions, please contact Ngozi Onunaku at (202) 682-0100, ext. 251 or Rashida Brown at ext. 225.

Sincerely,

Tracy Wareing

Handwritten signature of Tracy L. Wareing in black ink.

Executive Director, APHSA

Lynette Rasmussen

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Chair, NASCCA