February 4, 2026

Robert F. Kennedy, Jr.
Secretary of United States Department of Health and Human Services

RE: Docket number 2025-24272 / RIN number 0970-AD20

Dear Secretary Kennedy,

Thank you for the opportunity to comment in response to a Notice of Proposed Rulemaking (NPRM) regarding amending the Child Care and Development Fund (CCDF) regulations (45 CFR Part 98). New America is an independent, non-profit policy and research organization, and our Education Policy Program works to strengthen and improve our nation's education system so that all individuals - from birth to workforce - have equitable access to high-quality learning that prepares them for college, careers, and civic life in a time of rapid technological and social change. We bring intentional and sustained attention to the students, families, and communities that are least well-served by existing educational policies and practices.

CCDF is a crucial program that helps bring child care within reach for families with low incomes, especially as the cost of care skyrockets across the country. Communities nationwide depend on the viability of this program, the stability it can offer providers and early educators, and the early learning services that help set children up for success in school and beyond.

The 2024 rule – *Improving Child Care Access, Affordability, and Stability in the Child Care and Development Fund* – was developed specifically to address the widespread and mounting affordability crisis in the child care sector, insufficient and delayed payments for providers, and inadequate child care supply that limits options for families.[1] The provisions included in that rule were developed on the basis of extensive data, research, and feedback from both the field and from parents, and were aimed at maximizing program participation, boosting parent choice of care type, and improving program integrity.

The proposed rule fails to address any documented issues with the existing standards, and will weaken the program, undermining its intended purpose and curtailing its ability to meet its statutory requirements. Moreover, rolling back these provisions will have an outsized impact on smaller providers, both

[1] Office of Child Care, Administration for Children and Families, "2024 CCDF Final Rule: Improving Child Care Access, Affordability, and Stability in the Child Care and Development Fund," https://acf.gov/occ/outreach-material/2024-ccdf-final-rule.

740 15th Street NW, Suite 900, Washington, DC 20005 • Phone: 202-986-2700 • Fax: 202-986-3696 • www.newamerica.org

center-based and home-based, who operate on small margins and benefit from more stable and consistent payment practices. Further, the proposed rule would result in greater costs and burdens on parents and families with low incomes, who rely on the program to work, go to school, and provide for their families.

Therefore, we oppose the proposed rule and urge the Administration for Children and Families to reconsider the implications of rescinding the 2024 rule. Below, you can find our comments on specific provisions outlined in the proposed rule.

Repeal of The 7 Percent Cap on Family Co-payments

- **The proposed rule repeals the following provision from the 2024 final rule:**
    - § 98.45(l)(3) Provides for affordable family co-payments that are not a barrier to families receiving assistance under this part, not to exceed 7 percent of income for all families, regardless of the number of children in care who may be receiving CCDF assistance.

Research indicates that, for families with low incomes, the cost of child care is a barrier to access at any co-payment level.[2] Currently, a total of 29 states[3] limit copayments to seven percent or less, a major improvement for families living below the poverty line who spend an average of 36 percent of their annual income on care.[4] This widespread adoption demonstrates that states recognize the importance of keeping co-payments affordable and have been able to implement this requirement within a short timeframe and without undue burden.

Families who have multiple children receiving a subsidy would be hit the hardest by the proposed rule, which eliminates previous guidance that caps the copayment at 7 percent "regardless of the number of children in care who may be receiving CCDF assistance," (§ 98.45(l)(3)). In fiscal year (FY) 2022, approximately 1.4 million children from 870,900 families received CCDF child

---

[2] Gina Adams and Eleanor Pratt, "Assessing Child Care Subsidies through an Equity Lens: A Review of Policies and Practices in the Child Care and Development Fund," September 2021, https://www.urban.org/sites/default/files/publication/104777/assessing-child-care-subsidies-through-an-equity-lens.pdf.

[3] Child Care Aware of America, "ECE Policy Across the U.S., 2020-Present," January 2026, https://www.childcareaware.org/state-policy-dashboard/.

[4] Center for American Progress, "Calculating the Hidden Cost of Interrupting a Career for Child Care," January 2026, https://www.americanprogress.org/article/calculating-the-hidden-cost-of-interrupting-a-career-for-child-care/.

care assistance per month – meaning that a significant portion of families receiving assistance could see their costs increase dramatically under new regulations.[5]

Repeal of the Requirement to Pay Child Care Providers Based on a Child's Enrollment Rather Than Attendance

- **The proposed rule repeals the following provision from the 2024 final rule:**
  - § 98.45(m)(2) Support the fixed costs of providing child care services by delinking provider payments from a child's occasional absences by: (i) Basing payment on a child's authorized enrollment; or, (ii) An alternative approach for which the Lead Agency provides a justification in its Plan that the requirements at paragraph (m)(2)(i) of this section are not practicable, including evidence that the alternative approach will not undermine the stability of child care programs.

Paying providers based on enrollment represents best and common practice for child care programs and benefits providers and families. For providers, enrollment-based payment practices allow for stability in planning and budgeting for child care businesses, and prevent programs from losing funding due to occasional absences, which can occur for a variety of reasons such as illness or vacations. Child care businesses already operate on thin profit margins and high fixed costs related to staffing and space, and those costs do not go down if a child is absent for several days for any reason. A Montana provider recently emphasized that paying providers based on children's attendance fails to account for the financial realities of running a child care operation: "We have to have a certain amount of staff even when the kids don't show up. If the state wasn't paying by enrollment, then I don't know how we would be able to sustain that."[6]

While child care providers do not have to accept subsidy dollars, a 2023 survey by the National Association for the Education of Young Children (NAEYC) found that 80 percent of child care program administrators would be more likely to serve families utilizing subsidies if providers were paid by enrollment rather than

---

[5] Office of Child Care, Administration for Children and Families, "FY 2022 Preliminary Data Table 1 - Average Monthly Adjusted Number of Families and Children Served," January 2025, https://acf.gov/occ/data/fy-2022-preliminary-data-table-1.

[6] Aaron Loewenberg, "Proposed CCDF Rule Could Further Weaken an Already Fragile Child Care System," New America, February 2, 2026, https://www.newamerica.org/education-policy/edcentral/proposed-ccdf-rule-could-further-weaken-an-already-fragile-child-care-system/.

attendance.[7] States are already making important progress towards embracing enrollment-based payment. A recent review by New America's New Practice Lab of the 2025-2027 CCDF State Plans, appendices, waivers, and other publicly available documentation revealed that 24 states are already paying providers based on enrollment.[8] For states that have moved towards enrollment-based payment, an analysis from New America and Child Care Aware of America found that those practices had a stabilizing effect for providers that rely on this structure.[9]

Conclusion

A robust, well-resourced, and stable child care and early learning system helps children and families thrive. CCDF is a crucial part of that system, and the 2024 regulatory changes that promoted fair payment practices for providers, eased administrative burdens around enrollment, and limited the cost burden for families with low incomes were a critical step toward strengthening the sector and improving both access and affordability.

Undermining those provisions, such as those included in this proposed rule, will have the reverse effect – weakening the system, making it harder for providers to stay afloat, and further limiting options and jeopardizing access to child care for vulnerable families. The proposed rule would impose significant costs and burdens on children, families, providers, and the broader communities – which the proposed rule has failed to address or meaningfully consider in its summary. We therefore urge you to reconsider the implications of rescinding the 2024 rule.

Thank you for your consideration of these comments for the proposed rulemaking. If you have any questions, please contact Cara Sklar, Director of Early & Elementary Education Policy, at sklar@newamerica.org.

Sincerely,
Cara Sklar

---

[7] NAEYC, "Improving Child Care Access, Affordability, and the Child Care and Development Fund (CCDF): A Proposed Rule by the Department of Health and Human Services on 7/13/2023."
[8] Erica Meade, "A State-by-State Summary of Prospective Payments Implementation Approaches," New America New Practice Lab, September 15, 2025, https://www.newamerica.org/new-practice-lab/blog/approaches-to-implementing-prospective-payments/.
[9] Abbie Lieberman, Aaron Loewenberg, and Cara Sklar, "Make Child Care More Stable: Pay by Enrollment," New America, June 1, 2021, https://www.newamerica.org/education-policy/briefs/make-child-care-more-stable-pay-by-enrollment/.