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President Signs Child Care Reauthorization; Includes New State Requirements

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Summary

On November 19, 2014, the president signed into law the Child Care Development Block Grant (CCDBG) Act of 2014 (P.L. 113-186), which reauthorizes the program for the first time since 1996. The law adds a number of new state requirements, more than doubling the size of the statute. Many of these changes were included in proposed regulations issued by the Department of Health and Human Services (HHS) in May 2013 to improve the safety and quality of child care.

P.L. 113-186 requires states to establish educational, health, and safety standards in 10 specified areas for child care providers receiving federal funding. States will also be required to conduct background checks for child care staff, modify their eligibility processes, meet new licensing requirements, and increase funds set aside to improve the quality of child care. While the law authorizes additional funding for CCDBG to implement these new requirements, this funding is not guaranteed. Funding levels are determined through the annual appropriations process.

Background

Funding streams. The Child Care and Development Fund (CCDF) is the primary program that provides child care subsidies to families and funds quality initiatives for child care. It consists of three funding streams: discretionary, mandatory, and matching funds. The discretionary portion, CCDBG, was established in 1990 as part of the Omnibus Budget Reconciliation Act (P.L. 101-508). The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, P.L. 104-193) reauthorized CCDBG, repealed old welfare-related child care programs, and created the mandatory and matching funds, referred to as child care entitlements to states. PRWORA specified that the new child care entitlement funds be subject to CCDBG requirements. In addition, it allowed states to transfer a portion of Temporary Assistance for Needy Families (TANF) to CCDF, or spend TANF directly for child care.

CCDBG does not require state matching funds. However, to access the matching portion of child care entitlements to states, states must meet maintenance-of-effort (MOE) requirements, and provide a portion of funds based on the Federal Medical Assistance Percentage (FMAP).

State allocations. State allocations for the three funding streams are calculated by formula after deductions are made for the following set asides:

training and technical assistance (up to 0.25% of CCDF), tribes (2% of CCDF), and territories (up to 0.5% of CCDBG). Recent appropriations language has earmarked CCDBG funds for child care research, demonstration, and evaluation, as well as a national hotline. Table 1 shows state allocations for fiscal year (FY) 2014.

Authorization. PRWORA authorized \$1 billion annually for CCDBG for fiscal years (FYs) 1996-2002. Even though the authorization expired, Congress has continued to fund the program through the annual appropriations process. Funding for the mandatory/matching portion of CCDF is part of the TANF reauthorization, which has been operating under short-term extensions since FY 2011. It was last extended by the Continuing Appropriations Resolution, 2015 (P.L. 113-164), which expires on December 11, 2014. The table below provides recent funding levels for CCDF and its components.

Recent CCDF Funding by Activity
(dollars in thousands)

Funding Stream	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
CCDBG (Discretionary)					
State/territory allocations	\$2,068,312	\$2,162,728	\$2,216,181	\$2,145,647	\$2,294,299
<i>Additional targeted set-asides</i>	288,982	302,135	308,708	298,474	314,458
Research and evaluation	10,910	9,890	9,871	9,340	9,851
Training/technical assistance	5,318	5,557	5,696	5,514	5,900
National hotline	0	0	998	946	996
Tribal	42,542	44,453	45,566	44,111	47,200
Subtotal	2,127,081	2,222,627	2,278,313	2,205,558	2,358,246
Percent Change		4.5%	2.5%	-3.2%	6.9%
Child Care Entitlements (Mandatory)					
Mandatory grants	1,177,525	1,177,525	1,177,525	1,177,525	1,177,525
Matching grants	1,673,843	1,673,843	1,673,843	1,673,843	1,673,843
Training/technical assistance	7,293	7,293	7,293	7,293	7,293
Tribal	58,340	58,340	58,340	58,340	58,340
Subtotal	2,917,000	2,917,000	2,917,000	2,917,000	2,917,000
Percent Change		0.0%	0.0%	0.0%	0.0%
CCDF Total	\$5,044,081	\$5,139,627	\$5,195,313	\$5,122,558	\$5,275,246

Funding

P.L. 113-186 reauthorizes CCDBG through FY 2020 at the following levels:

Fiscal Year	Authorization (\$ in thousands)	Percent Change
2015	\$2,360,000	
2016	2,478,000	5.0%
2017	2,539,950	2.5%
2018	2,603,449	2.5%
2019	2,668,535	2.5%
2020	2,748,591	3.0%

These funding levels represent the authorized level; actual funding will be determined through the appropriations process. The FY 2015 authorization level is the same as the amount appropriated for CCDBG in FY 2014 (before the secretary of HHS transferred \$1.8 million from CCDBG to other accounts).

Use of funds. States must spend CCDF funds on child care services and activities that improve the quality or availability of such services, with priority given to children with low family incomes and children with special needs. P.L. 113-186 adds activities to improve access to child care services, and establishing or supporting a child care resource and referral system to the list of allowable activities. It also requires HHS to prepare an annual report (beginning in FY 2016) that determines whether states are in compliance with the priority of services, and includes penalties for noncompliance. Specifically, states have six months to fully comply or the secretary of HHS withholds 5% of funds. The secretary can grant a waiver under extraordinary circumstances, such as a natural disaster.

P.L. 113-186 maintains the 5% limit on administrative costs. After quality set-asides (described below) and administrative costs, the new law requires states to spend a minimum of 70% of remaining funds on direct services.

Set-asides. Currently, states must spend at least 4% of CCDF funds to improve the quality and availability of child care. Since FY 2000, annual appropriations have required additional CCDBG funds to be set aside for targeted purposes, including quality expansion, infant and toddler care quality, and school-age care/resource and referral.

P.L. 113-186 phases in an increase in the minimum quality set-aside from 4% to 9%, and requires states to spend an additional 3% to improve the quality of care for infant and toddlers. With this expansion, it is unclear whether Congress will maintain appropriations language requiring set asides beyond those specified in statute.

Fiscal Year	Quality Set-Aside	Infant/Toddler Set-Aside
2015	4%	
2016	7%	
2017	7%	3%
2018	8%	3%
2019	8%	3%
2020+	9%	3%

Moreover, states now must spend quality funds on at least one of 10 specified activities:

- Training/professional development of child care workforce
- Developing and implementing the early learning and development guidelines
- Developing, implementing, or enhancing a tiered quality rating system for child care providers and services
- Improving the supply/quality of child care for infants and toddlers

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- Establishing or expanding a statewide system of child care resource and referral services
 - Facilitating compliance with state requirements for inspection, monitoring, training, and health and safety, as well as state licensing standards
 - Evaluating and assessing the quality and effectiveness of child care programs and services
 - Supporting child care providers to achieve voluntary accreditation
 - Supporting state or local efforts to develop or adopt high-quality program standards relating to health, mental health, nutrition, physical activity, and physical development
 - Carrying out activities to improve of the quality of child care services that allow for measurement of outcomes related to improved provider preparedness, child safety, child well-being, or entry to kindergarten

Beginning in FY 2016, states must submit to HHS an annual certification of its compliance with the quality set-aside. States must also submit an annual report that includes: 1) the amount of funds reserved for quality, 2) how funds are spent, and 3) the measures that will be used to evaluate progress in improving the quality of child care.

Additionally, states are required to establish professional development and training requirements for CCDF providers, including annual training to improve their knowledge and skills. States must also maintain or implement early learning and development guidelines for statewide use by child care providers. The law specifies that states do not need to submit the guidelines to the federal government for review.

P.L. 113-186 increases the set-aside for training and technical assistance from up to 0.25% to up to 0.5% of CCDF, and adds a new set-aside of up to 0.5% to conduct research and demonstration activities. (Recent appropriation language has set aside funds for child care research, demonstration, and evaluation activities.) Additionally, it specifies that the set-aside for tribes is not less than 2% (previously, it was up to 2%), and allows for a greater percentage under certain circumstances.

Eligibility

States may serve families whose parents are working or in education/training activities, as well as families whose children are receiving protective services. However, family income cannot exceed 85% of the state median income. P.L. 113-186 makes the following changes to eligibility:

- Establishes a 12-month eligibility redetermination period, regardless of changes in income (as long as the income does not exceed the threshold) or temporary changes in participation in work, training, or education activities. (According to the Congressional Budget Office [CBO], approximately half of the states already schedule redeterminations every 12 months.)
- Prevents the eligibility redetermination process from unduly disrupting parental employment.

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- Provides states with the option of terminating assistance prior to redetermination if a parent loses employment or ceases to attend a job training/education program, but assistance must continue for at least three months.
 - Provides for a graduated phase-out of assistance for families whose income has increased at the time of redetermination, but remains below the federal threshold.
 - Requires procedures for enrollment of homeless children pending completion of documentation, as well as training and outreach to promote access to services for homeless families.
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Health, Safety, and Other Requirements

Health and safety standards. States must certify that requirements are in place to protect the health and safety of children. With the exception of relative providers, all providers that receive federal funding must meet basic health and safety standards. Under the new law, states must develop health and safety standards in 10 areas:

- Prevention and control of infectious diseases (including immunization)
- Prevention of sudden infant death syndrome and use of safe sleeping practices
- Administration of medication
- Prevention of and response to emergencies due to food and allergic reactions
- Building and physical premises safety
- Prevention of shaken baby syndrome and abusive head trauma
- Emergency preparedness and response planning
- Handling and storage of hazardous materials
- Appropriate precautions in transporting children
- First aid and CPR

States must ensure that providers serving children who receive assistance through CCDF receive pre-service and ongoing training on health and safety standards. Moreover, states must have standards for CCDF providers regarding group size limits and appropriate child-to-provider ratios based on the age of children in child care.

Licensing. No later than two years after the law's enactment (by November 19, 2016), states must certify that they meet the new licensing requirements, including:

- Establishing qualifications and training for licensing inspectors, and appropriate inspector-to-provider ratios to ensure visits occur in a timely manner
- Conducting one pre-licensure inspection of CCDF providers, at least one annual unannounced inspection of licensed CCDF providers, and an annual inspection of license-exempt CCDF providers (with the exception of relative providers)

According to CBO, the vast majority of states conduct pre-licensing

inspections and annual inspections of licensed providers. However, only 13 states require inspections of license-exempt providers.

Background checks. P.L. 113-186 mandates that states have requirements, policies, and procedures on enforcing and conducting comprehensive criminal background checks for existing and prospective child care providers. This applies to all child care providers (with the exception of relative caregivers), and is not limited to those receiving CCDF funds.

The background checks must cover all child care staff members, including those who don't care directly for children but have unsupervised access to children, and be done when they are hired and every five years thereafter (for current staff, an initial background check must be conducted by September 30, 2017). The new law specifies the list of registries and databases that must be checked. Moreover, states must have a process for staff to appeal the results. States are allowed to charge fees to cover the costs of processing applications and administering criminal background checks.

States must meet the requirements by September 30, 2017. The secretary of HHS may provide states with a one-year extension if they demonstrate a good faith effort to comply with the requirements. If a state fails to comply with the requirements, the law requires that the secretary of HHS withhold 5% of its CCDF allocation in the following year.

Consumer and Provider Information

States are required to provide consumer education information to help parents make informed choices about child care. The law expands the information that states must make available to consumers. Specifically, states must provide information on the availability of child care assistance and other support programs, such as TANF, Head Start, and the Individuals with Disabilities Act program; research and best practices on child development; quality of providers, if available; state policies regarding social-emotional health of children; and developmental screenings for children at risk of cognitive or developmental delays. Also, states must have a website that describes the process for licensing and monitoring child care providers as well as conducting background checks.

States must also make available electronically provider-specific information showing the results of monitoring and inspection reports, as well as the number of deaths, serious injuries, and instances of substantiated child abuse that occur in child care settings each year. This provision is effective no later than one year after the state has complied with the new licensing requirements (by November 19, 2017).

Finally, P.L. 113-186 requires the secretary of HHS to reserve up to \$1.5 million annually for a national website and hotline. The website must disseminate consumer education information, and allow a zip code search for referral to local child care providers. The national hotline is for reporting child abuse and neglect, and violations of health and safety standards.

Other Changes

CCDBG purpose. The law revises the existing five purposes of CCDBG and adds new ones, such as improving child care and the development of participating children, increasing the number and percentage of low-income

children in high-quality child care settings, promoting involvement by parents and family members in the development of their children in child care settings, and assisting states in delivering high-quality, coordinated services to maximize parental options.

State plan submission. States are required to have in place a plan—submitted on a biennial basis—that implements CCDF regulations. The law changes the plan period from a two- to a three-year cycle. According to HHS, state and territory plan submissions are due July 1, 2015, for FYs 2016-2018.

Waiver authority. The secretary of HHS is responsible for reviewing and monitoring state compliance with CCDF requirements, and may impose penalties on states for noncompliance. P.L. 113-186 includes a new section on waiver authority. Specifically, it allows HHS to waive provisions or penalties in the statute for up to three years (with the option of a one-year extension) based on a request from a state identifying:

- duplicative requirements that prevent effective delivery of child care services,
- extraordinary circumstances, or
- an extended period of time for a state legislature to enact legislation to implement the statute

Provider payments. The new law requires states to establish policies that reflect generally accepted payment practices for child care providers, including (to the extent practicable) paying for absence days, and timely reimbursement for child care services. States must also conduct a market rate survey, or use an alternative methodology, and describe how payment rates will be established based on the results, taking into account the cost of providing higher quality services. States must also develop and implement strategies for increasing the supply and quality of services for children in underserved areas, infants and toddlers, children with disabilities, and children in care during nontraditional hours.

Emergency preparedness. P.L. 113-186 requires emergency preparedness planning and statewide disaster plans for child care, and specifies the disaster plan components.

Child abuse reporting. Under the new law, states must certify that CCDF providers comply with child abuse reporting requirements included in the Child Abuse Prevention and Treatment Act.

Program duplication. P.L. 113-186 requires that HHS and the Department of Education conduct a review of all early learning and care programs for children under age 6 to develop a plan for eliminating overlapping programs and make recommendations for streamlining such programs. The report should be submitted to Congress no later than one year after the law's enactment.

Effective Dates

Unless otherwise specified, provisions are effective on the date of enactment. Many requirements have future dates as well as waiver provisions for states to request an extension. The Administration for Children and Families (ACF) indicated that detailed guidance on effective dates will be

forthcoming. Moreover, it will work with states through the state plan submission process to develop state-specific timelines for implementation. The following table highlights deadlines specified in the law.

No later than one year after enactment (Nov. 19, 2015)
<ul style="list-style-type: none"> • HHS/ED submit a report on review of early learning/care programs
FY 2016
<ul style="list-style-type: none"> • HHS submits annual report to determine state compliance w/ priority of service • Increase in quality set-aside begins to phase in • States must submit annual assurance/report on quality set-aside • New state plans effective for FYs 2016-2018
No later than two years after enactment (Nov. 19, 2016)
<ul style="list-style-type: none"> • States must meet new licensing standards
FY 2017
<ul style="list-style-type: none"> • States must comply with comprehensive background checks • States must set aside an additional 3% of CCDF funds to improve the quality of care for infant and toddlers
No later than three years after enactment (November 19, 2017)
<ul style="list-style-type: none"> • States must have inspection reports posted publically

Next Steps

ACF indicated that program instruction with details on effective dates and the state plan process will be published this month. ACF will also conduct training on the new law for state agencies administering CCDF in January 2015. Since the law did not indicate the extent to which many of the new provisions apply to tribes, ACF will issue separate policy guidance to tribes after consultation with tribal leaders and administrators. Implementation information will be posted on ACF's reauthorization resource [page](#). Moreover, ACF decided to end the rulemaking process for its proposed rule on improving the safety and quality of child care. The new law includes many of the changes and is more far-reaching than the proposed rule.

Currently, CCDF is being funded under the Continuing Appropriations Resolution, 2015, which expires on December 11, 2014. Congress is working to finalize appropriations for FY 2015 via an omnibus appropriations bill. The bill includes an extension of the mandatory/matching portion of CCDF until September 30, 2015, at FY 2014 levels. It also funds CCDBG at \$2.435 billion, \$75 million more than both the FY 2015 authorization and FY 2014 appropriation levels. The omnibus does require states to set aside additional funds (\$306 million) for targeted purposes, as in previous years. Congress is expected to pass the omnibus bill this week.

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Table 1

FY 2014 CCDF Allocations

(dollars in thousands)

State	CCDBG		Mandatory		Matching		CCDF Total	
	Amount	Share of Total						
Alabama	\$43,897	1.9%	\$16,442	1.4%	\$25,455	1.5%	\$85,794	1.7%
Alaska	4,535	0.2%	3,545	0.3%	4,331	0.3%	12,411	0.2%
Arizona	57,682	2.5%	19,827	1.7%	37,085	2.2%	114,594	2.2%
Arkansas	28,991	1.3%	5,300	0.5%	16,264	1.0%	50,556	1.0%
California	259,204	11.3%	85,593	7.3%	209,000	12.5%	553,797	10.8%
Colorado	29,484	1.3%	10,174	0.9%	28,488	1.7%	68,145	1.3%
Connecticut	15,341	0.7%	18,738	1.6%	17,416	1.0%	51,496	1.0%
Delaware	6,083	0.3%	5,179	0.4%	4,670	0.3%	15,933	0.3%
District of Columbia	3,417	0.1%	4,567	0.4%	2,633	0.2%	10,616	0.2%
Florida	130,625	5.7%	43,027	3.7%	89,996	5.4%	263,647	5.1%
Georgia	96,143	4.2%	36,548	3.1%	57,032	3.4%	189,724	3.7%
Hawaii	8,142	0.4%	4,972	0.4%	7,037	0.4%	20,151	0.4%
Idaho	14,734	0.6%	2,868	0.2%	9,830	0.6%	27,432	0.5%
Illinois	81,265	3.5%	56,874	4.8%	69,117	4.1%	207,256	4.0%
Indiana	54,622	2.4%	26,182	2.2%	36,083	2.2%	116,887	2.3%
Iowa	21,003	0.9%	8,508	0.7%	16,484	1.0%	45,994	0.9%
Kansas	22,103	1.0%	9,812	0.8%	16,694	1.0%	48,609	0.9%
Kentucky	41,385	1.8%	16,702	1.4%	23,266	1.4%	81,352	1.6%
Louisiana	42,199	1.8%	13,865	1.2%	25,710	1.5%	81,774	1.6%
Maine	7,629	0.3%	3,019	0.3%	5,872	0.4%	16,520	0.3%
Maryland	28,663	1.2%	23,301	2.0%	30,394	1.8%	82,358	1.6%
Massachusetts	28,736	1.3%	44,973	3.8%	31,206	1.9%	104,915	2.0%
Michigan	73,209	3.2%	32,082	2.7%	50,256	3.0%	155,547	3.0%
Minnesota	31,481	1.4%	23,368	2.0%	29,169	1.7%	84,018	1.6%
Mississippi	33,990	1.5%	6,293	0.5%	17,035	1.0%	57,318	1.1%
Missouri	44,348	1.9%	24,669	2.1%	31,860	1.9%	100,876	2.0%
Montana	6,782	0.3%	3,191	0.3%	5,053	0.3%	15,026	0.3%
Nebraska	13,867	0.6%	10,595	0.9%	10,765	0.6%	35,227	0.7%
Nevada	19,730	0.9%	2,580	0.2%	15,159	0.9%	37,470	0.7%
New Hampshire	5,341	0.2%	4,582	0.4%	5,976	0.4%	15,899	0.3%
New Jersey	42,557	1.9%	26,374	2.2%	45,367	2.7%	114,299	2.2%
New Mexico	20,396	0.9%	8,308	0.7%	11,828	0.7%	40,532	0.8%
New York	104,726	4.6%	101,984	8.7%	95,901	5.7%	302,611	5.9%
North Carolina	78,773	3.4%	69,639	5.9%	52,382	3.1%	200,794	3.9%
North Dakota	4,049	0.2%	2,506	0.2%	3,590	0.2%	10,146	0.2%
Ohio	81,299	3.5%	70,125	6.0%	59,794	3.6%	211,218	4.1%
Oklahoma	34,531	1.5%	24,910	2.1%	21,624	1.3%	81,065	1.6%
Oregon	26,691	1.2%	19,409	1.6%	19,499	1.2%	65,599	1.3%
Pennsylvania	70,223	3.1%	55,337	4.7%	61,175	3.7%	186,735	3.6%
Rhode Island	5,617	0.2%	6,634	0.6%	4,791	0.3%	17,042	0.3%
South Carolina	42,880	1.9%	9,867	0.8%	24,746	1.5%	77,493	1.5%
South Dakota	6,017	0.3%	1,711	0.1%	4,740	0.3%	12,468	0.2%
Tennessee	54,141	2.4%	37,702	3.2%	33,960	2.0%	125,803	2.4%
Texas	252,113	11.0%	59,844	5.1%	161,207	9.6%	473,165	9.2%
Utah	28,678	1.2%	12,592	1.1%	20,947	1.3%	62,217	1.2%
Vermont	3,184	0.1%	3,945	0.3%	2,713	0.2%	9,843	0.2%
Virginia	44,975	2.0%	21,329	1.8%	42,414	2.5%	108,718	2.1%
Washington	40,516	1.8%	41,883	3.6%	36,199	2.2%	118,599	2.3%
West Virginia	14,481	0.6%	8,727	0.7%	8,678	0.5%	31,886	0.6%
Wisconsin	36,875	1.6%	24,511	2.1%	29,803	1.8%	91,189	1.8%
Wyoming	3,054	0.1%	2,815	0.2%	3,143	0.2%	9,012	0.2%
Puerto Rico	32,091	1.4%	0	0.0%	0	0.0%	32,091	0.6%
Virgin Islands	2,335	0.1%	0	0.0%	0	0.0%	2,335	0.0%
American Samoa	3,087	0.1%	0	0.0%	0	0.0%	3,087	0.1%
Guam	4,448	0.2%	0	0.0%	0	0.0%	4,448	0.1%
Northern Marianas	1,931	0.1%	0	0.0%	0	0.0%	1,931	0.0%
Unallocated 1/	63,947	n/a	61,437	n/a	4,195	n/a	129,580	n/a
TOTAL	\$2,358,246	100%	\$1,238,962	100%	\$1,678,038	100%	\$5,275,246	100%

1/ Unallocated reflects funding for tribes, technical assistance, research and evaluation, and hotline.

Source: Department of Health and Human Services

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