

February 4, 2026

The Honorable Robert F. Kennedy  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Re: Restoring Flexibility in the Child Care and Development Fund (CCDF)  
RIN 0970–AD20 | FR Doc. 2025-24272

Dear Secretary Kennedy,

The American Public Human Services Association (APHSA), representing state and local human services agencies nationwide, and its affinity group, the National Association of State Child Care Administrators (NASCCA), appreciate the opportunity to comment on the Notice of Proposed Rulemaking (NPRM), Restoring Flexibility in the Child Care and Development Fund (CCDF).

Our comments are informed by input from state CCDF Lead Agency leadership, who are responsible for administering CCDF programs and translating federal requirements into operational reality. We strongly support the goals of affordability, access to high quality care, and provider stability to ensure families have the support needed to fully participate in the workforce, education and training.

### **Overall Perspective**

During the comment period of the 2024 final rule, APHSA, on behalf of our members, expressed both support for the intention of the rulemaking and serious concerns that implementation without additional funding would result in reduced access to this critical workforce resource.

For those reasons, there is general support among our members for the current NPRM's objective to address flexibility by rescinding several requirements added in the 2024 final rule. The proposed changes respond meaningfully to concerns previously raised regarding unfunded mandates, implementation feasibility, systems readiness, and the risk that rigid federal requirements could unintentionally reduce access for families.

We address the four main rescissions of the 2024 Final Rule below:

### **Family Copayments**

We appreciate HHS's recognition that the federally mandated seven percent family copayment cap adopted in the 2024 final rule posed significant fiscal and operational challenges for many states in the absence of additional funding.

We encourage HHS to reiterate that seven percent is a national benchmark. The seven percent threshold has functioned as a long-standing federal reference point, even prior to the 2024 final rule, and reverting to less specific regulatory language may undermine consistency across jurisdictions.

### **Timely Payments to Providers**

We support rescinding the mandates requiring prospective payment, recognizing that states vary widely in system readiness, legislative authority, and operational capacity. We encourage HHS to preserve expectations for timely payment while allowing states discretion in how timeliness and stability are achieved. States emphasize that payment models—whether prospective, enrollment-based, attendance-based, or hybrid—must remain state-determined, particularly considering existing fiscal controls and federal drawdown requirements.

It has been suggested that paying providers based on enrollment rather than attendance can lead to improper payments. We contend that states that have strong controls in place to verify attendance are at no greater risk for potential fraud based upon the timing of the payment to the provider. Paying prospectively versus paying after the fact is only a timing issue. Regardless of the timing of the payment, states should have processes in place to verify that children are using the CCDF benefits that they have been authorized to receive.

Additionally, in response to the NPRM's request for input on the timeframe for retrospective payments, our members have raised concerns with uniformly being able to meet a shortened timeline. Instead, we would encourage HHS to consider having states indicate how they balance their state processes with providers' needs for consistency and timely payments.

### **Payment Based on Enrollment**

We support this recission because it will give states greater flexibility to establish provider payment practices. The impacts of payment reforms vary across contexts. No single payment model satisfies all states, underscoring the importance of state flexibility.

Federal oversight can appropriately emphasize the adequacy of state financial controls without prescribing specific payment methodologies. Where mechanisms exist to verify service delivery and prevent improper payments, oversight approaches can reflect those controls regardless of the payment model used.

We would be open to exploring alternative thresholds for absence payments and believe it is important to thoughtfully balance the goal of maintaining family access to care with the role that predictable payments play in supporting providers' operational stability, including sustaining staffing ratios. Any changes should carefully consider the financial impacts on states, particularly where increased costs could ultimately reduce access to care for families. At a minimum, we believe it is important to maintain Option 4 of the 2016 Rule, which allows states to establish an alternative approach for which the Lead Agency provides justification in its Plan.

## **Grants and Contracts for Supply Building**

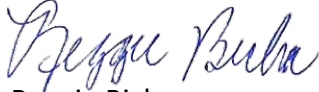
We support repealing the requirement that states provide some child care services through grants or contracts.

We believe that grants and contracts should remain optional tools and that their use, or non-use, should not be treated as an indicator of fraud or misuse in monitoring or auditing processes.

## **Conclusion**

We appreciate HHS's efforts to restore state flexibility in CCDF administration. While many of our members supported the intent of the 2024 Rule, the cost of implementation was concerning, particularly when considering potential impacts on the number of families and children served. Flexibility must be paired with clarity, consistency, and respect for existing policy choices to avoid unintended burdens on Lead Agencies and families. We look forward to continued partnership with HHS to strengthen CCDF in ways that expands access for children and families, support providers, and reflect the realities facing state and local child care systems.

Sincerely,



Reggie Bicha

President and CEO

American Public Human Services Association

