



ADMINISTRATION FOR
CHILDREN & FAMILIES

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December 13, 2021

Catherine Betts, Director
State of Hawaii Department of Human Services
1390 Miller Street, #209
Honolulu, HI 96813

Dear Director Betts:

The Office of Child Care (OCC) has completed its review of your federal fiscal year (FFY) 2022-2024 Child Care and Development Fund (CCDF) Plan. We appreciate your hard work and partnership, especially as you have had to respond to unprecedented child care challenges as a result of the COVID-19 pandemic.

This letter is to inform you that the Hawaii CCDF Plan for the period of October 1, 2021, through September 30, 2024, has been approved with conditions. A Plan “approved with conditions” is a fully approved Plan with conditions related to requirements that are non-compliant or without a final determination as noted below regarding payment rates. The conditions will be deemed fully compliant once all provisions in the Child Care and Development Block Grant (CCDBG) Act of 2014 and the Final Rule are fully implemented and demonstrated via a Plan amendment. At that time, the Hawaii CCDF Plan will be approved without conditions.

Regarding your requests for a temporary waiver for the market rate survey or Administration for Children and Families (ACF) pre-approved alternative methodology and/or the narrow cost analysis, the following waivers to your CCDF Plan were approved:

- Your request to waive the requirement at 45 CFR §98.45(c), (d)(1), (e), and (f) to complete a statistically valid and reliable market rate survey and/or ACF pre-approved alternative methodology including 45 CFR §98.45(d)(2)(i) to collect information on the extent providers participate in subsidy program and any barriers to participation; 45 CFR §98.45(d)(2)(ii) to collect information on the extent that providers charge additional amounts to parents beyond the co-payment; 45 CFR §98.45(l)(3)(i) to collect information on generally-accepted payment practices related to not paying based on full and part time; and 45 CFR §98.45(l)(3)(ii) to collect

information on generally-accepted payment practices related to reasonable mandatory registration fees for child care programs impacted by COVID-19 has been approved effective September 30, 2021, through July 1, 2022 (one year following the July 1, 2021 deadline).

- Your request to waive the requirement at 45 CFR §98.45(b)(4) and (f) to complete a narrow cost analysis for child care programs impacted by COVID-19 has been approved effective September 30, 2021, through July 1, 2022 (one year following the July 1, 2021 deadline).

Due to the number of states and territories who requested waivers to have additional time to complete their data collection and set payment rates, the OCC will not issue compliance decisions on sufficient payment rates (45 CFR §98.45(b)(2), 45 CFR §98.45(b)(3), and 45 CFR §98.45(b)(4)) for any state or territory until after those waivers expire July 1, 2022.

Full implementation of all provisions in the CCDBG Act of 2014 and the Final Rule in your CCDF Plan was required no later than September 30, 2021, unless the state or territory received approval for a waiver specific for the market rate survey or ACF pre-approved alternative methodology and/or the narrow cost analysis as indicated above. Based on the information reviewed in your CCDF Plan, the OCC has determined Hawaii did not fully implement the provisions listed below by the effective date of September 30, 2021. The specific non-compliant requirements are indicated in the attached “Detailed List of Non-Compliant Provisions as of 9/30/2021.”

- 45 CFR §98.20 - Child's Eligibility for Child Care Services
- 45 CFR §98.21 - Eligibility Determination Processes
- 45 CFR §98.33 - Consumer and Provider Education
- 45 CFR §98.41 - Health and Safety Requirements - Standards
- 45 CFR §98.42 - Enforcement of Licensing and Health and Safety Requirements
- 45 CFR §98.43 - Criminal Background Checks
- 45 CFR §98.44 - Training and Professional Development
- 45 CFR §98.68 - Program Integrity

For each CCDF requirement listed as non-compliant, this letter serves as a preliminary notice of possible non-compliance pursuant to 45 CFR §98.90(b). The OCC will consider any written response that outlines steps toward resolution received from Hawaii to address the non-compliances within 60 days of receipt of this notice (or such longer period if agreed upon) prior to rendering a final determination of compliance. You will be subject to this notice of possible non-compliance until a Plan amendment is approved demonstrating compliance with the CCDF requirements and may be subject to enforcement via a penalty pursuant to 45 CFR §98.92.

While the OCC recognizes that progress toward full implementation of the comprehensive background check (CBC) requirements continues to be delayed due to the complicated statutory requirements and the impacts of the COVID-19 pandemic over the past 18 months, the CCDBG waiver authority is temporary and has now been used for 7 years to support Lead Agencies in meeting the CBC requirements. At this time, we have exhausted our allowable existing waiver authority to provide additional time to implement the background checks requirements. The OCC expects states and territories to continue to work toward coming into compliance using all available resources and technical assistance supports – including such resources as the National Fingerprint File (NFF) and targeted assistance to build out background check policies for all providers. The OCC will not issue final notices of non-compliance for background check requirements prior to September 1, 2022, which means no enforcement action (penalty) for comprehensive background check requirements will be taken prior to FFY 2023.

The CCDF Plan includes questions that encompass all elements as required by regulations at 45 CFR §98.16. However, the Plan does not ask about all aspects of federal requirements. Recognizing the information in the Plan is not exhaustive, the OCC monitors state compliance through multiple mechanisms. All requirements of the CCDBG Act of 2014 and the Final Rule are subject to the monitoring, compliance, and complaint actions as described in 45 CFR Subpart J, including §98.90, §98.91, and §98.92. Additionally, states and territories are subject to audit requirements at 45 CFR §98.65 of CCDF regulations.

You will receive a separate Notice of Grant Award from the Office of Administration in the ACF. The notice will include the amount of your award and any additional terms and conditions for the receipt of CCDF program funds. During the effective period of this Plan, any substantial changes to your CCDF program must be submitted as a Plan amendment to your Regional Office for approval in accordance with 45 CFR §98.18(b). Lead Agencies are reminded to describe in the Plan amendment if the amended activity is being supported by the increased funding (see Program Instruction for more information about Plan amendments:

<https://www.acf.hhs.gov/occ/policy-guidance/ffy2022-2024-ccdf-plan-preprint-states-and-territories>). Lead Agencies also are reminded that you must post the approved Plan and any amendments on your state or territory website and assure any required links are functional.

We understand that it is essential for CCDF Lead Agencies to have wide-ranging support in the implementation of their CCDF Plans. OCC and the technical assistance network supporting CCDF grantees have worked together to develop a variety of technical assistance options aimed at supporting the implementation of CCDF and full compliance with CCDF policies. Your Regional Office and State Systems Specialist will be reaching out to you to discuss your specific technical assistance needs.

We look forward to working together to promote the early learning and development of children and family economic stability and success. If you have any questions, please contact Christina Warren, Acting Regional Program Manager, Office of Child Care, at 415-437-8450 or christina.warren@acf.hhs.gov. Thank you for all you do each day for children and families.

Sincerely,



Ruth Friedman, Ph.D.
Director
Office of Child Care

cc: Scott Nakasone, Assistant Benefit, Employment, and Support Services Division
Administrator
Christina Warren, Regional Program Manager, Office of Child Care, Region IX
Francesca Longo, Regional Liaison, Office of Child Care

Encl: Attachment 1: Detailed List of Non-Compliant Provisions as of 9/30/2021

Attachment 1: Detailed List of Non-Compliant Provisions as of 9/30/2021, by Category and Plan Question

The Office of Child Care has approved the Hawaii FFY 2022-2024 Child Care and Development Fund (CCDF) Plan pending full implementation of the unmet requirements of the Child Care and Development Block Grant Act of 2014 and the Final Rule. This document details the specific requirements that are unmet by your CCDF Plan.

| CCDF Rule Provision | Category | Plan Question |
|---|--------------------------------|--|
| 45 CFR §98.20 - Child's Eligibility for Child Care Services | Eligible Children and Families | 3.1.3 Eligibility criteria: Family income limits. |
| 45 CFR §98.21 - Eligibility Determination Processes | 12-Month Eligibility | 3.4.1 12-month eligibility. |
| 45 CFR §98.33 - Consumer and Provider Education | Consumer Education Website | 2.3.7 Monitoring and inspection reports for each licensed provider and for each non-relative provider who is eligible to provide CCDF services on website. |
| | | 2.3.8 Aggregate data on serious injuries, deaths, and substantiated cases of child abuse on website. |
| 45 CFR §98.41 - Health and Safety Requirements - Standards | Health and Safety Standards | 5.2.2 Ratio and group size. |
| | | 5.3.1a Standards to address the prevention and control of infectious diseases (including immunizations). |
| | | 5.3.2a Standards to address the prevention of sudden infant death syndrome and use of safe-sleep practices. |
| | | 5.3.3a Standards to address the administration of medication, consistent with standards for parental consent. |
| | | 5.3.4a Standards to address the prevention of and response to emergencies due to food and allergic reactions. |

| CCDF Rule Provision | Category | Plan Question |
|---|---|--|
| | | 5.3.5a Standards to address building and physical premises safety, including the identification of and protection from hazards, bodies of water, and vehicular traffic. |
| | | 5.3.6a Standards to address the prevention of shaken baby syndrome, abusive head trauma, and child maltreatment. |
| | | 5.3.7a Standards to address emergency preparedness and response planning for providers. |
| | | 5.3.8a Standards to address the handling and storage of hazardous materials and the appropriate disposal of biocontaminants. |
| | | 5.3.9a Standards to address precautions in transporting children (if applicable). |
| | | 5.3.10a Standards to address pediatric first aid and pediatric cardiopulmonary resuscitation (CPR). |
| | | 5.3.11a Standards to address reporting child abuse and neglect. |
| 45 CFR §98.42 - Enforcement of Licensing and Health and Safety Requirements | Enforcement of Licensing and Health and Safety Requirements | 5.4.1 Procedures to ensure that CCDF providers comply with the required health and safety standards. |
| | Monitoring and Enforcement Policies | 5.4.2 Inspections for licensed CCDF providers. |
| 45 CFR §98.43 - Criminal Background Checks | Comprehensive Background Checks | 5.5.1 Certification that the state has policies and is conducting checks for the required background check components, ensuring that these requirements are in place for all licensed, |

| CCDF Rule Provision | Category | Plan Question |
|--|-----------------------------------|--|
| | | <p>regulated, or registered child care providers and for all other providers eligible to deliver CCDF services.</p> <p>5.5.2 Procedures for a provider to request a background check.</p> <p>5.5.3 Procedures for a Lead Agency to respond to and complete a background check.</p> <p>5.5.6 Consumer education website links to interstate background check processes.</p> |
| <p>45 CFR §98.44 - Training and Professional Development</p> | <p>Health and Safety Training</p> | <p>5.3.1b Training to address the prevention and control of infectious diseases (including immunizations).</p> <p>5.3.2b Training to address the prevention of sudden infant death syndrome and use of safe-sleep practices training.</p> <p>5.3.3b Training to address the administration of medication, consistent with standards for parental consent.</p> <p>5.3.4b Training to address the prevention of and response to emergencies due to food and allergic reactions.</p> <p>5.3.5b Training to address building and physical premises safety, including the identification of and protection from hazards, bodies of water, and vehicular traffic.</p> <p>5.3.6b Training to address the prevention of shaken baby syndrome, abusive head trauma, and child maltreatment.</p> <p>5.3.7b Training to address preparedness and response planning for providers.</p> |

| CCDF Rule Provision | Category | Plan Question |
|--|---|---|
| | | <p>5.3.8b Training to address the handling and storage of hazardous materials and the appropriate disposal of biocontaminants.</p> <p>5.3.9b Training to address precautions in transporting children (if applicable).</p> <p>5.3.10b Training to address pediatric first aid and pediatric cardiopulmonary resuscitation (CPR).</p> <p>5.3.11b Training to address reporting child abuse and neglect.</p> <p>5.3.12 Child development training.</p> <p>5.3.13 Ongoing training hours.</p> |
| <p>45 CFR §98.68 - Program Integrity</p> | <p>Internal Controls and Accountability</p> | <p>8.1.3 Check and describe how the state/territory ensures that all providers for children receiving CCDF funds and Lead Agency staff members and any staff members in other agencies, are informed and trained regarding CCDF requirements and integrity.</p> <p>8.1.5 Check and describe any activities that the Lead Agency conducts to ensure program integrity.</p> <p>8.1.6 The Lead Agency is required to identify and recover misspent funds as a result of fraud, and it has the option to recover any misspent funds as a result of errors.</p> <p>8.1.7 What type of sanction will the Lead Agency place on clients and providers to help reduce improper payments due to program violations?</p> |