or amendment may, within 60 days
after the date of receipt of notification
of such determination, file a petition
with the Assistant Secretary asking
for reconsideration of the issue of
whether such Plan or amendment con-
forms to the requirements for approval
under the Act and pertinent Federal
regulations.

(2) Within 30 days after receipt of
such petition, the Assistant Secretary
shall notify the applicant or Lead
Agency of the time and place at which
the hearing for the purpose of reconsid-
ering such issue will be held.

(3) Such hearing shall be held not less
than 30 days, nor more than 90 days,
after the notification is furnished to
the applicant or Lead Agency, unless
the Assistant Secretary and the appli-
cant or Lead Agency agree in writing
on another time.

(4) Action pursuant to an initial de-
termination by the Assistant Secretary
described in paragraphs (a) and (b) of
this section that a Plan or amendment
is not approvable shall not be stayed
pending the reconsideration, but in the
event that the Assistant Secretary sub-
sequently determines that the original
decision was incorrect, the Assistant
Secretary shall certify restitution
forthwith in a lump sum of any funds
incorrectly withheld or otherwise de-
nied. The hearing procedures are de-
scribed in part 99 of this chapter.

Subpart C—Eligibility for Services

§ 98.20 A child’s eligibility for child
care services.

(a) In order to be eligible for services
under §98.50, a child shall:

(1)(i) Be under 13 years of age; or,
(ii) At the option of the Lead Agency,
be under age 19 and physically or men-
tally incapable of caring for himself or
herself, or under court supervision;

(2) Reside with a family whose in-
come does not exceed 85 percent of the
State’s median income for a family of
the same size; and

(3)(i) Reside with a parent or parents
(as defined in §98.2) who are working
or attending a job training or educational
program; or

(ii) Receive, or need to receive, pro-
tective services and reside with a par-
et or parents (as defined in §98.2)
other than the parent(s) described in
paragraph (a)(3)(i) of this section.

(A) At grantee option, the require-
ments in paragraph (a)(2) of this sec-
tion and in §98.42 may be waived for
families eligible for child care pursuant
to this paragraph, if determined to be
necessary on a case-by-case basis by, or
in consultation with, an appropriate
protective services worker.

(B) At grantee option, the provisions
in (A) apply to children in foster care
when defined in the Plan, pursuant to
§98.16(g)(7).

(b) Pursuant to §98.16(g)(5), a grantee
or other administering agency may es-
tablish eligibility conditions or pri-
ority rules in addition to those speci-
fied in this section and §98.44 so long as
they do not:

(1) Discriminate against children on
the basis of race, national origin, eth-
nic background, sex, religious affili-
ation, or disability;

(2) Limit parental rights provided
under Subpart D; or

(3) Violate the provisions of this sec-
tion, §98.44, or the Plan. In particular,
such conditions or priority rules may
not be based on a parent’s preference
for a category of care or type of pro-
vider. In addition, such additional con-
ditions or rules may not be based on a
parent’s choice of a child care certifi-
cate.

Subpart D—Program Operations
(Child Care Services)—Parental
Rights and Responsibilities

§ 98.30 Parental choice.

(a) The parent or parents of an eligi-
bile child who receives or is offered
child care on a case-by-case basis by, or
in consultation with, an appropriate
protective services worker.

(b) When a parent elects to enroll the
child with a provider that has a grant
or contract for the provision of child
care services, the child will be enrolled
with the provider selected by the parent to the maximum extent practicable.

(c) In cases in which a parent elects to use a child care certificate, such certificate:
(1) Will be issued directly to the parent;
(2) Shall be of a value commensurate with the subsidy value of the child care services provided under paragraph (a)(1) of this section;
(3) May be used as a deposit for child care services if such a deposit is required of other children being cared for by the provider;
(4) May be used for child care services provided by a sectarian organization or agency, including those that engage in religious activities, if those services are chosen by the parent;
(5) May be expended by providers for any sectarian purpose or activity that is part of the child care services, including sectarian worship or instruction;
(6) Shall not be considered a grant or contract to a provider but shall be considered assistance to the parent.

(d) Child care certificates shall be made available to any parents offered child care services.

(e)(1) For child care services, certificates under paragraph (a)(2) of this section shall permit parents to choose from a variety of child care categories, including:
(i) Center-based child care;
(ii) Group home child care; and
(iii) Family child care; and
(iv) In-home child care, with limitations, if any, imposed by the Lead Agency and described in its Plan at §98.16(g)(2). Under each of the above categories, care by a sectarian provider may not be limited or excluded.

(2) Lead Agencies shall provide information regarding the range of provider options under paragraph (e)(1) of this section, including care by sectarian providers and relatives, to families offered child care services.

(f) With respect to State and local regulatory requirements under §98.40, health and safety requirements under §98.41, and payment rates under §98.43, CCDF funds will not be available to a Lead Agency if State or local rules, procedures or other requirements promulgated for purposes of the CCDF significantly restrict parental choice by:
(1) Expressly or effectively excluding:
(i) Any category of care or type of provider, as defined in §98.2; or
(ii) Any type of provider within a category of care; or
(2) Having the effect of limiting parental access to or choice from among such categories of care or types of providers, as defined in §98.2; or
(3) Excluding a significant number of providers in any category of care or of any type as defined in §98.2.

§98.31 Parental access.
The Lead Agency shall have in effect procedures to ensure that providers of child care services for which assistance is provided afford parents unlimited access to their children, and to the providers caring for their children, during normal hours of provider operation and whenever the children are in the care of the provider. The Lead Agency shall provide a detailed description of such procedures.

§98.32 Parental complaints.
The State shall:
(a) Maintain a record of substantiated parental complaints;
(b) Make information regarding such parental complaints available to the public on request; and
(c) The Lead Agency shall provide a detailed description of how such record is maintained and is made available.

§98.33 Consumer education.
The Lead Agency shall:
(a) Certify that it will collect and disseminate to parents and the general public consumer education information that will promote informed child care choices including, at a minimum, information about
(1) The full range of providers available, and
(2) Health and safety requirements;
(b) Inform parents who receive TANF benefits about the requirement at section 407(e)(2) of the Social Security Act that the TANF agency make an exception to the individual penalties associated with the work requirement for any single custodial parent who has a demonstrated inability to obtain needed child care for a child under six years of age.