

§ 1302.12

their annual funding application to inform this process. The annual update review must consider at a minimum: changes related to children and families experiencing homelessness; how the program addresses equity, accessibility, and inclusiveness in its provision of services; and changes to the availability of publicly funded pre-kindergarten and whether it meets needs of families. Programs must consider how the annual review and update can inform and support management approaches for continuous quality improvement, program goals, and ongoing oversight.

(6) A program must consider whether the characteristics of the community allow it to include children from diverse economic backgrounds that would be supported by other funding sources, including private pay, in addition to the program's eligible funded enrollment. A program must not enroll children from diverse economic backgrounds if it would result in a program serving less than its eligible funded enrollment.

[81 FR 61412, Sept. 6, 2016, as amended at 89 FR 67806, Aug. 21, 2024]

§ 1302.12 Determining, verifying, and documenting eligibility.

(a) *Process overview.* (1) Program staff must:

(i) Conduct an in-person interview with each family, unless paragraph (a)(2) of this section applies;

(ii) Verify information as required in paragraphs (h) and (i) of this section; and,

(iii) Create an eligibility determination record for enrolled participants according to paragraph (k) of this section.

(2) Program staff may interview the family over the telephone if an in-person interview is not possible or convenient for the family.

(3) If a program has an alternate method to reasonably determine eligibility based on its community assessment, geographic and administrative data, or from other reliable data sources, it may petition the responsible HHS official to waive requirements in paragraphs (a)(1)(i) and (ii) of this section.

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(b) *Age requirements.* (1) For Early Head Start, except when the child is transitioning to Head Start Preschool, a child must be an infant or a toddler younger than three years old.

(2) For Head Start Preschool, a child must:

(i) Be at least three years old or, turn three years old by the date used to determine eligibility for public school in the community in which the Head Start Preschool program is located; and,

(ii) Be no older than the age required to attend school.

(3) For Migrant or Seasonal Head Start, a child must be younger than compulsory school age by the date used to determine public school eligibility for the community in which the program is located.

(c) *Eligibility requirements.* (1) A pregnant woman or a child is eligible if:

(i) The family's income is equal to or below the poverty line; or,

(ii) The family is eligible for or, in the absence of child care, would be potentially eligible for public assistance; including TANF child-only payments; or,

(iii) The child is homeless, as defined in part 1305; or,

(iv) The child is in foster care.

(2) If the family does not meet a criterion under paragraph (c)(1) of this section, a program may enroll a child who would benefit from services, provided that these participants only make up to 10 percent of a program's enrollment in accordance with paragraph (d) of this section.

(d) *Additional allowances for programs.*

(1) A program may enroll an additional 35 percent of participants whose families do not meet a criterion described in paragraph (c) of this section and whose incomes are below 130 percent of the poverty line, if the program:

(i) Establishes and implements outreach, and enrollment policies and procedures to ensure it is meeting the needs of eligible pregnant women, children, and children with disabilities, before serving pregnant women or children who do not meet the criteria in paragraph (c) of this section; and,

(ii) Establishes criteria that ensure pregnant women and children eligible

under the criteria listed in paragraph (c) of this section are served first.

(2) If a program chooses to enroll participants who do not meet a criterion in paragraph (c) of this section, and whose family incomes are between 100 and 130 percent of the poverty line, it must be able to report to the Head Start regional program office:

(i) How it is meeting the needs of low-income families or families potentially eligible for public assistance, homeless children, and children in foster care, and include local demographic data on these populations;

(ii) Outreach and enrollment policies and procedures that ensure it is meeting the needs of eligible children or pregnant women, before serving over-income children or pregnant women;

(iii) Efforts, including outreach, to be fully enrolled with eligible pregnant women or children;

(iv) Policies, procedures, and selection criteria it uses to serve eligible children;

(v) Its current enrollment and its enrollment for the previous year;

(vi) The number of pregnant women and children served, disaggregated by the eligibility criteria in paragraphs (c) and (d)(1) of this section; and,

(vii) The eligibility criteria category of each child on the program's waiting list.

(e) *Additional allowances for Indian tribes.* (1) Notwithstanding paragraph (c) of this section, a Tribal program may determine any pregnant women or children in the approved service area to be eligible for services regardless of income, if they meet the requirements of paragraph (b) of this section.

(2) An Indian Tribe or Tribes that operates both an Early Head Start program and a Head Start Preschool program may, at its discretion, at any time during the grant period involved, reallocate funds between the Early Head Start program and the Head Start Preschool program in order to address fluctuations in client populations, including pregnant women and children from birth to compulsory school age. The reallocation of such funds between programs by an Indian Tribe or Tribes during a year may not serve as a basis for any reduction of

the base grant for either program in succeeding years.

(f) *Migrant or Seasonal eligibility requirements.* Notwithstanding paragraph (c) of this section, pregnant women and children are eligible for Migrant or Seasonal Head Start if they have at least one family member whose income comes primarily from agricultural employment as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802), and if they meet the requirements of paragraph (b) of this section.

(g) *Eligibility requirements for communities with 1,000 or fewer individuals.* (1) A program may establish its own criteria for eligibility provided that it meets the criteria outlined in section 645(a)(2) of the Act.

(2) No child residing in such community whose family is eligible under criteria described in paragraphs (c) through (f) of this section, may be denied an opportunity to participate in the program under the eligibility criteria established under this paragraph (g).

(h) *Verifying age.* Program staff must verify a child's age according to program policies and procedures. A program's policies and procedures cannot require families to provide documents that confirm a child's age, if doing so creates a barrier for the family to enroll the child.

(i) *Verifying eligibility.* (1) To verify eligibility based on income, program staff must use tax forms, pay stubs, or other proof of income to determine the family income for the relevant time period.

(i) The program must calculate total gross income using applicable sources of income.

(ii) A program may make an adjustment to a family's gross income calculation for the purposes of determining eligibility to account for excessive housing costs. A program may use available bills, bank statements, and other relevant documentation provided by the family to calculate total annual housing costs with appropriate multipliers to:

(A) Determine if a family spends more than 30 percent of their total gross income on housing costs, as defined in part 1305 of this chapter; and

(B) If applicable, reduce the total gross income by the amount spent on housing costs that exceed more than 30 percent.

(iii) If the family cannot provide tax forms, pay stubs, or other proof of income for the relevant time period, program staff may accept written statements from employers, including individuals who are self-employed, for the relevant time period and use information provided to calculate total annual income with appropriate multipliers.

(iv) If the family reports no income for the relevant time period, a program may accept the family's signed declaration to that effect, if program staff describes efforts made to verify the family's income, and explains how the family's total income was calculated or seeks information from third parties about the family's eligibility, if the family gives written consent. If a family gives consent to contact third parties, program staff must adhere to program safety and privacy policies and procedures and ensure the eligibility determination record adheres to paragraph (k)(2) of this section.

(v) If the family can demonstrate a significant change in income for the relevant time period, program staff may consider current income circumstances.

(2) To verify whether a family is eligible for, or in the absence of child care, would be potentially eligible for public assistance, the program must have documentation from either the state, local, or tribal public assistance agency that shows the family either receives public assistance or that shows the family is potentially eligible to receive public assistance.

(3) To verify whether a family is homeless, a program may accept a written statement from a homeless services provider, school personnel, or other service agency attesting that the child is homeless or any other documentation that indicates homelessness, including documentation from a public or private agency, a declaration, information gathered on enrollment or application forms, or notes from an interview with staff to establish the child is homeless; or any other document that establishes homelessness.

(i) If a family can provide one of the documents described in this paragraph (i)(3), program staff must describe efforts made to verify the accuracy of the information provided and state whether the family is eligible because they are homeless.

(ii) If a family cannot provide one of the documents described in this paragraph (i)(3) to prove the child is homeless, a program may accept the family's signed declaration to that effect, if, in a written statement, program staff describe the child's living situation that meets the definition of homeless in part 1305 of this chapter.

(iii) Program staff may seek information from third parties who have firsthand knowledge about a family's living situation, if the family gives written consent. If the family gives consent to contact third parties, program staff must adhere to program privacy policies and procedures and ensure the eligibility determination record adheres to paragraph (k) of this section.

(4) To verify whether a child is in foster care, program staff must accept either a court order or other legal or government-issued document, a written statement from a government child welfare official that demonstrates the child is in foster care, or proof of a foster care payment.

(j) *Eligibility duration.* (1) If a child is determined eligible under this section and is participating in a Head Start program, he or she will remain eligible through the end of the succeeding program year except that the Head Start program may choose not to enroll a child when there are compelling reasons for the child not to remain in Head Start, such as when there is a change in the child's family income and there is a child with a greater need for Head Start services.

(2) Children who are enrolled in a program receiving funds under the authority of section 645A of the Act remain eligible while they participate in the program.

(3) If a child moves from an Early Head Start program to a Head Start Preschool program, program staff must verify the family's eligibility again.

(4) If a program operates both an Early Head Start and a Head Start Preschool program, and the parents wish

to enroll their child who has been enrolled in the program's Early Head Start, the program must ensure, whenever possible, the child receives Head Start Preschool services until enrolled in school, provided the child is eligible.

(5) If a program operates a Migrant and Seasonal Head Start program, children younger than age three participating in the program remain eligible until they turn three years old consistent with paragraph (j)(2) of this section.

(k) *Records.* (1) A program must keep eligibility determination records for each participant and ongoing records of the eligibility training for staff required by paragraph (m) of this section. A program may keep these records electronically.

(2) Each eligibility determination record must include:

(i) Copies of any documents or statements, including declarations, that are deemed necessary to verify eligibility under paragraphs (h) and (i) of this section;

(ii) A statement that program staff has made reasonable efforts to verify information by:

(A) Conducting either an in-person, or a telephone interview with the family as described under paragraph (a)(1)(i) or (a)(2) of this section; and,

(B) Describing efforts made to verify eligibility, as required under paragraphs (h) through (i) of this section; and, collecting documents required for third party verification that includes the family's written consent to contact each third party, the third parties' names, titles, and affiliations, and information from third parties regarding the family's eligibility.

(iii) A statement that identifies whether:

(A) The family's income is below income guidelines for its size, and lists the family's size;

(B) The family is eligible for or, in the absence of child care, potentially eligible for public assistance;

(C) The child is a homeless child or the child is in foster care;

(D) The family was determined to be eligible under the criterion in paragraph (c)(2) of this section; or,

(E) The family was determined to be eligible under the criterion in paragraph (d)(1) of this section.

(3) A program must keep eligibility determination records for those currently enrolled, as long as they are enrolled, and, for one year after they have either stopped receiving services; or are no longer enrolled.

(1) *Program policies and procedures on violating eligibility determination regulations.* A program must establish written policies and procedures that describe all actions taken against staff who intentionally violate Federal and program eligibility determination regulations and who enroll pregnant women and children that are not eligible to receive Head Start services.

(m) *Training on eligibility.* (1) A program must train all governing body, policy council, management, and staff who determine eligibility on applicable federal regulations and program policies and procedures. Training must, at a minimum:

(i) Include methods on how to collect complete and accurate eligibility information from families and third party sources;

(ii) Incorporate strategies for treating families with dignity and respect and for dealing with possible issues of domestic violence, stigma, and privacy; and,

(iii) Explain program policies and procedures that describe actions taken against staff, families, or participants who attempt to provide or intentionally provide false information.

(2) A program must train management and staff members who make eligibility determinations within 90 days of hiring new staff.

(3) A program must train all governing body and policy council members within 180 days of the beginning of the term of a new governing body or policy council.

(4) A program must develop policies on how often training will be provided after the initial training.

[81 FR 61412, Sept. 6, 2016, as amended at 89 FR 67807, Aug. 21, 2024]

§ 1302.13 Recruitment of children.

In order to reach those most in need of services, a program must develop and implement a recruitment process