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(k) Material Incorporated by Reference

None.

Issued on December 30, 2025.

Christopher R. Parker,

Acting Deputy Director, Compliance & Airworthiness Division, Aircraft Certification Service.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 98

RIN 0970–AD20

Restoring Flexibility in the Child Care and Development Fund (CCDF)

AGENCY: Office of Child Care (OCC), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Health and Human Services, Administration for Children and Families proposes to amend the Child Care and Development Fund (CCDF) regulations (45 CFR part 98) to reduce costs and burden for states and territories administering the CCDF program. It proposes rescinding the requirements to limit family co-payments to 7 percent of family income, to provide some direct services through grants or contracts, to pay providers based on child’s enrollment, and to pay providers prospectively that were added to the CCDF regulations in the March 2024 final rule, *Improving Child Care Access, Affordability, and Stability in the Child Care and Development Fund (CCDF)* (89 FR 15366). The docket on <https://www.regulations.gov> will include a plain language summary of the NPRM as required by 5 U.S.C. 553(b)(4).

DATES: In order to be considered, written comments on this proposed rule must be received on or before February 4, 2026.

ADDRESSES: You may submit written comments, identified by docket number ACF–XXXX–XXXX and/or RIN number 0970–AD20, by one of the following methods:

• **Federal eRulemaking Portal:** Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

• **Email:** OCCPolicyInfo@acf.hhs.gov. Include the docket number ACF–XXXX–XXXX and/or RIN number 0970–AD20 in the subject line of the message.

Instructions: All submissions received must include the agency name and docket number or RIN number for this rulemaking. All comments received are a part of the public record and will be posted for public viewing on www.regulations.gov, without change. Please be advised that the substance of the comments and the identity of individuals or entities submitting the comments will be subject to public disclosure. Anonymous comments are accepted.

FOR FURTHER INFORMATION CONTACT: Megan Campbell, Supervisory Child Care Program Specialist, Policy, Data, and Planning Division, Office of Child Care, Administration for Children and Families, Department of Health and Human Services, Washington, DC 202–690–6499 or OCCPolicyInfo@acf.hhs.gov.

SUPPLEMENTARY INFORMATION:

Contents

I. Statutory Authority	4
II. Background	4
III. Executive Summary	6
Effective Date	9
Costs, Benefits, and Transfer Impacts.	9
IV. Discussion of Proposed Changes	10
Subpart B—General Application Procedures	11
Subpart D—Program Operations (Child Care Services) Parental Rights and Responsibilities	12
Subpart E—Program Operations (Child Care Services) Lead Agency and Provider Requirements	13
Subpart F—Use of Child Care and Development Funds	20
Subpart I—Indian Tribes	21
V. Regulatory Process Matters	22
Paperwork Reduction Act	22
Executive Order 13132	23
Assessment of Federal Regulations and Policies on Families	24
VI. Regulatory Impact Analysis	24
VII. Tribal Consultation Statement	28
List of Subjects in 45 CFR Part 98	28

I. Statutory Authority

This proposed regulation is being issued under the authority granted to the Secretary of Health and Human Services by the Child Care and Development Block Grant Act of 1990, as amended (42 U.S.C. 9857 *et seq.*), hereafter referred to as the “Act,” and section 418 of the Social Security Act (42 U.S.C. 618).

II. Background

The Act (42 U.S.C. 9857 *et seq.*), together with section 418 of the Social Security Act (42 U.S.C. 618), authorize

the Child Care and Development Fund (CCDF), which is the primary federal funding source dedicated to supporting working families with low incomes to afford child care and to increasing the quality of child care for all children. CCDF funds child care services in the 50 states, the District of Columbia, 5 territories, and 264 Tribal organizations. Federal Fiscal year (FFY) 2025 enacted CCDF funding is \$12.30 billion awarded by formula to States, Territories, and Tribes. CCDF child care subsidies, primarily administered through vouchers, help working families with

low incomes access child care that best meets their needs. In FFY 2022, the most recent year for which data is available, CCDF provided subsidies to over 1.4 million children from 870,000 families each month.¹ CCDF also promotes the quality of child care by requiring CCDF Lead Agencies to spend at least 12 percent of their CCDF funding each year on activities to improve child care quality for all children in care. In FFY 2021, states spent \$3 billion on activities to improve

¹ <https://acf.gov/occ/data/fy-2022-preliminary-data-table-1>.

the quality of child care and an additional \$570 million on improving the quality and supply of infant and toddler care.

Congress last reauthorized the CCDBG Act in 2014 (Pub. L. 113–186), and HHS published regulations implementing the new provisions of the Act in September 2016 (81 FR 67438). The 2016 regulations built on the priorities Congress included in the reauthorization. In July 2023, HHS proposed changes to a limited number of provisions in the CCDF regulations (88 FR 45043). In response to proposed changes, HHS received over 1,600 public comments with many commenters, including CCDF Lead Agencies, noting concerns about the timing and costs associated with the proposed changes (89 FR 15372–3). The changes were codified in a final rule published by HHS in March 2024 (89 FR 15366).

Since publication of the March 2024 final rule, several States and Territories have reiterated to HHS that some of the requirements added in the March 2024 final rule are more costly and difficult to implement than HHS had estimated. This feedback has been shared through State and Territory CCDF plan appendices, in-person meetings and focus groups with CCDF administrators, and technical assistance inquiries. The numerous barriers to implementing these requirements are also evidenced by the fact that all States and Territories have two-year transitional and legislative waivers because they all needed additional time to implement at least one of the new requirements. More recently, some States have requested to renew these transitional and legislative waivers for two additional years to implement the changes because of the high cost and extensive systems changes necessary to come into compliance.

This NPRM proposes to rescind the four most onerous requirements. The changes proposed in this NPRM align with the text of the Act, including the first purpose enumerated by Congress: “to allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within that State.” 42 U.S.C. 9857(b)(1). If the proposed changes are finalized, States, Territories, and Tribes will continue to have the option to adopt policies based on their own assessment of what works best for children, families, and child care providers in their communities.

By proposing to remove these overly prescriptive requirements, this NPRM responds to Executive Order 14192, *Unleashing Prosperity through Deregulation* and would restore State,

Territory, and Tribal flexibility for designing and operating their CCDF programs as they deem most appropriate. Under this Executive Order, “It is the policy of the executive branch to be prudent and financially responsible in the expenditure of funds, from both public and private sources, and to alleviate unnecessary regulatory burdens placed on the American people.”

This NPRM also responds to Secretary Robert F. Kennedy Jr.’s directive to “launch the most sweeping deregulatory initiative in the history of the Department” of Health and Human Services by “eliminating bureaucratic red tape and “aggressively deregulating to return the freedoms eroded over decades by unnecessary and burdensome regulations.”² 90 FR 20393–94.

III. Executive Summary

This NPRM proposes to rescind four requirements added in the March 2024 final rule that are costly, burdensome, and overly prescriptive, especially compared to other block grant programs. All four rescissions would impact States and Territories. Only the repeal of the family co-payment limit would impact Tribal Lead Agencies, as Tribal Lead Agencies are already exempt from the requirements related to payment practices. As is standard with block grant programs, Lead Agencies would continue to have the flexibility to implement the policies required by the March 2024 final rule, but HHS would no longer require implementation of the rescinded requirements.

- *Repeal the federally mandated cap on family co-payments at § 98.45(l)(3).* This proposed change removes the mandatory 7-percent cap that was imposed in the March 2024 final rule. With this change, CCDF policy would revert to the previous requirement that matches the statutory language that co-payments cannot be a barrier to families receiving child care assistance. In the preamble to the 2016 final rule, ACF established an optional Federal benchmark for family co-payments of no more than 7 percent of family income based on 2011 data from a U.S. Census Bureau report that showed families, on average, spent 7 percent of income on child care. 81 FR 67467–68. Despite no new evidence that showed higher co-payments were a barrier to accessing the child care subsidy, the March 2024 final rule changed the benchmark into a federal requirement. This limit on Lead

Agencies’ ability to set co-payment amounts based on the needs of children, families, and providers in their State is counter to the first statutory purpose of CCDF, which is “to allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within the State.” 42 U.S.C. 9857(b)(1). This proposed change would restore Lead Agency flexibility to decide how best to balance the trade-offs between reducing child care costs for families participating in CCDF and serving additional families with higher co-payments.

- *Repeal the requirement to use some grants or contracts for direct services at § 98.30(b)(1).* The March 2024 final rule mandated States and Territories to use some grants or contracts to provide direct services for infants and toddlers, children with disabilities, and children in underserved geographic areas. HHS believes that this requirement is excessively prescriptive by mandating grants or contracts for particular populations and is difficult to implement. The stringent requirements mean that even some states that have a long history of using grants or contracts for direct services must make significant changes to meet the requirements of the March 2024 Final Rule. The proposed change to repeal this requirement will ensure that parents can use federal funding through certificates or vouchers to access the providers of their choosing, including faith-based providers.

- *Repeal the requirement to pay child care providers prospectively at § 98.45(m)(1).* The March 2024 final rule required provider payment in advance of or at the beginning of the delivery of service (*i.e.*, prospectively) with limited exceptions. This NPRM proposes to rescind this requirement, which only six States have implemented to date, and would revert to the option for States and Territories to pay providers prospectively or on a reimbursement basis, which was the standard set forth in the 2016 final rule. As required by the Act at Section 658E(c)(4)(B)(iv) (42 U.S.C. 9858c(c)(4)(B)(iv)), States and Territories must still ensure that child care providers are paid in a timely manner, which is critical for providers to participate in CCDF and increases the options available to parents.

- *Repeal the requirement to pay child care providers based on a child’s enrollment rather than attendance at § 98.45(m)(2).* The March 2024 final rule required States and Territories, with limited exceptions, to pay providers based on a child’s authorized enrollment. This policy, once fully

² <https://www.federalregister.gov/documents/2025/05/14/2025-08393/notification-of-hhs-documents-identified-for-rescission>.

implemented, was estimated to cost \$16.5 million per year. With its proposed repeal, States and Territories would have greater flexibility and multiple allowable options to meet the statutory requirement to delink provider payments from a child's occasional absences. HHS believes that delinking payments is important to support providers' fixed costs of delivering child care services and to encourage providers' participation in CCDF.

Effective Date

ACF expects all provisions included in the proposed rule, if finalized, to become effective 60 days from the date of publication of the final rule.

Costs, Benefits, and Transfer Impacts

By rescinding several of the mandatory provisions added by the March 2024 final rule, this NPRM would prevent the occurrence of the estimated transfers and costs reported in the 2024 Regulatory Impact Analysis (RIA), with the exception of the anticipated economic impacts in the first year. 89 FR 15400–11.

Over a 5-year time horizon covering 2025 through 2029, ACF estimates annualized transfers of \$23.4 million using a 3-percent discount rate and \$22.8 using a 7-percent discount rate; and annualized costs of \$6.7 million using a 3-percent discount rate and \$6.6 million using a 7-percent discount rate. Negative costs represent cost savings and negative transfers represent a reversal of the direction of transfers compared to the 2024 RIA. In this context, transfers under the March 2024 final rule that represented increases in Lead Agency payments to child care providers represent reductions in Lead Agency payments to child care providers.

To produce an estimate of cost savings under Executive Order 14192, we assume the impacts of the proposed changes on costs in 2029 will extend in perpetuity. We estimate that this NPRM will generate \$6.1 million in annualized cost savings at a 7-percent discount rate, discounted relative to year 2024, in perpetuity.

Severability

The provisions of this NPRM, once it becomes final, are intended to be severable, such that, in the event a court were to invalidate any particular provision or deem it to be unenforceable, the remaining provisions would continue to be valid. The changes address a variety of issues relevant to child care. None of the provisions contained herein are central to an overall intent of the proposed rule, nor

are any provisions dependent on the validity of other, separate provisions.

IV. Discussion of Proposed Changes

This NPRM would not alter the overall structure and organization of the current CCDF regulations. The preamble in this NPRM discusses the proposed changes to current regulations. Where language of previous regulations remains unchanged, the preamble explanation and interpretation of that language published with all prior final rules would also be retained, unless specifically proposed to be modified in the preamble to this NPRM. (See 57 FR 34352, Aug. 4, 1992; 63 FR 39936, Jul. 24, 1998; 72 FR 27972, May 18, 2007; 72 FR 50889, Sep. 5, 2007; 81 FR 67438, Sept. 30, 2016; 89 FR 15366, March 1, 2024; 89 FR 90605, November 18, 2024).

Subpart B—General Application Procedures

§ 98.16 Plan Provisions

Supply of child care. This NPRM proposes to amend § 98.16(x) and remove paragraphs (y) and (z) to align with the previous regulatory language added in the 2016 final rule and conform with the proposed changes at §§ 98.30 and 98.50 to remove the requirement to use some grants or contracts for direct services. The proposed change at § 98.16(x) would restore language from the 2016 final rule that the Plan must: Identify shortages in the supply of high-quality child care providers; list the data sources used to identify supply shortages; and describe the method of tracking progress to support equal access and parental choice. Identification of supply gaps of high-quality care is a critical step of building supply and quality for certain populations, as required by the Act.

The proposed language at § 98.16(x) is based on statutory language at Section 658E(c)(2)(M) of the Act (42 U.S.C. 9858c(c)(2)(M)), which requires the Lead Agency to describe strategies to increase the supply and improve the quality of child care services for children in underserved areas, infants and toddlers, children with disabilities, and children who receive care during nontraditional hours. As described in the Act, the strategies may include alternative payment rates to child care providers, the provision of direct contracts or grants to community-based organizations, offering child care certificates to parents, or other means determined by the Lead Agency. In addition to alternative payment rates and contracts, Lead Agencies may consider other strategies, including training and technical assistance to

child care providers to increase quality for these types of care.

With these proposed changes, § 98.16(aa) through (II) would be redesignated as § 98.16(y) through (jj).

Payment practices. The NPRM proposes minor changes to language at § 98.16(ee) (redesignated as § 98.16(cc)) to match the language of the 2016 final rule and conform with changes made at § 98.45(m). The revised provision requires Lead Agencies to describe in their CCDF Plans payment practices applicable to child care providers receiving CCDF, pursuant to § 98.45(m), including practices to ensure timely payment for services, to delink provider payments from children's occasional absences to the extent practicable, and to reflect generally accepted payment practices.

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

§ 98.30 Parental Choice

This NPRM proposes to rescind the requirement at § 98.30(b)(1) for States and Territories to provide some portion of the delivery of direct services via grants or contracts, including at a minimum for children in underserved geographic areas, infants and toddlers, and children with disabilities. The current requirement to use some grants or contracts for direct child care services was added in the March 2024 final rule. 89 FR 15381–83. These requirements are administratively burdensome and too restrictive to allow States to manage the CCDF program in a manner that appropriately addresses their supply needs. Based on the FFY 2025–2027 CCDF State and Territory Plans, the vast majority of States and Territories have not implemented grants or contracts for child care services that met the specific requirements previously included in the CCDF regulations. As of October 1, 2024, only six States and one territory had implemented grants or contracts for children with disabilities, 10 States and one Territory had implemented grants or contracts for infants and toddlers, and nine States had implemented grants or contracts for children in underserved geographic regions.

The Act requires that a State CCDF Plan provide assurances that parents participating in CCDF be offered “the option either- to enroll such child with a child care provider that has a grant or contract for the provision of such services; or to receive a child care certificate.” 42 U.S.C. 9858c(c)(2)(A). Therefore, this proposed rescission would not impact a Lead Agency's

ability to choose to use grants or contracts for direct services.

Subpart E—Program Operations (Child Care Services) Lead Agency and Provider Requirements

§ 98.45 Equal Access

Demonstrating Affordable Co-Payments. The NPRM proposes a conforming change at § 98.45(b)(5) to remove the requirement for Lead Agencies to describe in their CCDF Plans how co-payments “do not exceed 7 percent of income for all families.” Lead Agencies would still be required to demonstrate in their CCDF Plan how their co-payments are based on a sliding fee scale and are not a barrier to families receiving CCDF assistance. This proposed change aligns with the proposed elimination of the requirement at § 98.45(l)(3) to limit family co-payments to 7 percent of family income.

Family Co-payments. The NPRM at § 98.45(l)(3) proposes to rescind the requirement for States, Territories, and Tribes to establish co-payment policies for families that are “not to exceed 7 percent of income for all families, regardless of the number of children in care who may be receiving CCDF assistance.” Section 658E(c)(5) of the Act requires Lead Agencies to establish and periodically revise a sliding fee scale that provides for cost sharing (*i.e.*, co-payment) that is “not a barrier to families receiving” CCDF assistance. 42 U.S.C. 9858c(c)(5). The Act does not specify what constitutes “a barrier.” The preamble of the 2016 final rule noted that “Lead Agencies have flexibility in establishing their sliding fee scales and determining what constitutes a cost barrier for families” and established 7 percent as the federal benchmark³ for an affordable co-payment for families receiving CCDF. 81 FR 67515. Despite no additional data indicating that co-payments above 7-percent were a barrier, the March 2024 final rule transformed that 7 percent federal benchmark into a requirement for all States, Territories, and Tribes. 89 FR 15387–90. This lack of evidence therefore does not support turning a non-enforceable federal benchmark into a requirement.

This NPRM proposes to revert to the statutory language that matches the 2016 final rule requirement. Based on FFY 2025–2027 CCDF State and

Territory Plan data, 22 States and one Territory do not limit all co-payments to 7 percent or less of family income. By rescinding the requirement to cap co-payments to 7 percent of a family’s income, this NPRM supports State and Territory flexibility to determine what is affordable and what constitutes a barrier for the CCDF families they serve. Reverting to the statutory and 2016 final rule language would not impact Lead Agencies’ ability to limit co-payments to 7 percent of a family’s income or adopt a lower threshold that supports affordability.

The NPRM proposes to remove § 98.45(n)(5) which currently requires States and Territories to demonstrate in their CCDF Plan how they are ensuring they are not reducing the total payment (subsidy payment amount and co-payment) given to child care providers when implementing the requirement to limit co-payments to 7 percent of family income and the option of waiving co-payments for some families. A more detailed discussion of this proposed deletion is later in this preamble at the section titled *Restructuring to Align with Previous Regulations*, detailing changes to § 98.45(n).

Payment Practices. This NPRM proposes to rescind the requirements at § 98.45(m) for States and Territories to pay providers prospectively and by authorized enrollment. These requirements were added in the March 2024 final rule. 89 FR 15391–93. Lead Agency payment practices are an important aspect of ensuring families participating in CCDF have equal access to care as private pay families. Payment practices also support the ability of providers to participate in CCDF so that parents have choice in affordable child care options for their children. The proposed rescissions would give States and Territories more options for establishing provider payment practices that better balances the need for providers to receive stable payments to support parental choice while limiting burden on States and Territories.

Timely Payments to Providers. The NPRM proposes to amend language at § 98.45(m)(1) to eliminate the requirement for States and Territories to pay providers in advance of or at the beginning of delivery of child care services, commonly referred to as prospective payments. Section 658E(c)(4)(B)(iv) of the Act (42 U.S.C. 9858c(c)(4)(B)(iv)) requires Lead Agencies to describe how they will provide for the timely payment for child care services provided by CCDF funds. To better ensure timely payments and meet statutory requirements, this NPRM proposes returning to the requirement of

the 2016 final rule which gives Lead Agencies the option to *either* pay prospectively prior to the delivery of services or pay providers retrospectively within no more than 21 calendar days of the receipt of a complete invoice for services. This proposed change supports Lead Agency flexibility to determine the timely payment policies and procedures most appropriate for the State or Territory’s context. Based on FFY 2025–2027 CCDF State and Territory Plan data, 45 states and four Territories do not pay all provider types prospectively. The proposed changes would not impact a Lead Agency’s ability to choose to pay providers prospectively, and Lead Agencies that currently pay providers in advance of delivering child care services may continue to do so.

The proposed change to allow Lead Agencies to pay child care providers on a reimbursement basis supports Lead Agency flexibility and addresses concerns about the systems changes needed to implement prospective payments, which HHS estimated could cost up to \$10 million each year in the first two years of implementation. This NPRM proposes to require payment within 21 days of receiving a completed invoice for services. The 21-day deadline was established in the 2016 CCDF final rule. 81 FR 67516–17. However, some child care providers continue to express concerns about receiving payments so long after services were provided and noted they sometimes choose not to participate in CCDF or limit the number of children receiving CCDF that they will care for because of delays in payments, harming parental choice.⁴ Therefore, we request comment on whether a different deadline, such as seven days or 14 days after receiving a completed invoice, would more effectively balance the need to provide Lead Agency flexibility while also supporting provider stability.

Delinking Payments from Absences. The NPRM proposes to eliminate the requirement at § 98.45(m)(2) for States and Territories to base payments on a child’s authorized enrollment and would return to the options included in the 2016 final rule. By returning to previous regulatory language, Lead Agencies would have more options to meet the statutory requirement at Section 658E(c)(2)(S)(ii) of the Act (42 U.S.C. 9858c(c)(2)(S)(ii)) to support the fixed costs of providing child care

³ The benchmark is based on data from the U.S. Census Bureau that showed on average families spent 7 percent of income on child care, and that poor families on average spent approximately four times the share of their income on child care compared to higher income families. Who’s Minding the Kids? Child Care Arrangements: Spring 2011, U.S. Census Bureau, 2013.

⁴ U.S. Department of Health and Human Services. Office of the Inspector General. (August 2019). States’ Payment Rates Under the Child Care and Development Fund Program Could Limit Access to Child Care Providers (Report in Brief OEI–03–15–00170). <https://oig.hhs.gov/oei/reports/oei-03-15-00170.pdf>.

services by delinking provider payment rates from an eligible child's occasional absences due to holidays or unforeseen circumstances such as illness, to the extent practicable. Paragraph 98.45(m)(2), as proposed, would specify that Lead Agencies may meet this statutory requirement by: (1) Paying providers based on a child's enrollment, rather than attendance; (2) providing a full payment to providers as long as a child attends for 85 percent of the authorized time; (3) providing full payment to providers as long as a child is absent for five or fewer days in a four week period; or (4) establishing an alternative approach justified in the CCDF Plan. Based on FFY 2025–2027 CCDF State and Territory Plan data, 28 States and one Territory do not pay all provider types based on enrollment. The proposed changes would not impact a Lead Agency's ability to choose to pay providers based on a child's authorized enrollment, and Lead Agencies that currently pay providers based on enrollment may continue to do so.

This NPRM proposes to provide additional flexibility for Lead Agencies in how they meet the requirement to delink provider payments from absence days by reverting to the four options established in the 2016 final rule. In the time since publication of the 2016 final rule, child care providers have expressed that the uncertainty of whether they will be paid for a child's absence days makes it difficult to budget and manage business expenses, leading them to opt-out of participating in the CCDF program.⁵ State subsidy policies like paying for absence days can increase revenue and improve budget stability for child care programs. These policies may result in higher rates of participation in the CCDF program among providers, leading to more choices for families using CCDF voucher payments for care.⁶ As with timely payments, we are seeking comment on whether a different number of paid absences, such as ten days instead of five days in a month, and/or different attendance rate, such as 75 percent of authorized time instead of 85 percent of authorized time, would increase child care provider participation in the CCDF

program, while ensuring Lead Agency flexibility.

Restructuring to Align with Previous Regulations. This NPRM proposes to revise § 98.45 to revert to the paragraph structure of the 2016 final rule. First, the NPRM proposes to move language from the introduction at § 98.45(m) requiring provider payment practices to reflect generally accepted payment practices to § 98.45(m)(3). This proposed change aligns with regulatory language in the 2016 final rule, which included this text when describing the requirement to pay providers based on a part-time or full-time basis and to pay for reasonable mandatory fees. This paragraph structure change would not change requirements related to paying providers on a part-time or full-time basis or to pay for reasonable mandatory fees. Second, the NPRM would remove language at § 98.45(n)(4) that indicates Lead Agencies are able to take “precautionary measures when a provider is suspected of fiscal mismanagement.” This language was added to clarify flexibility available to States and Territories to adjust policies for required prospective payments and paying by enrollment when providers are suspected of fraud. Given this NPRM proposes to give States and Territories more flexibility with payment practices, the language will not be necessary once these changes are finalized. Lead Agencies would have sufficient flexibility in the revised regulatory language for payment practices to adjust payment policies in response to suspected provider fraud. Lastly, the NPRM proposes to remove paragraphs § 98.45(n)(4) and (5), combine § 98.45(m)(3) and (4) under a revised § 98.45(m)(3), and redesignate the provisions at § 98.45(n)(1)–(3) as § 98.45(m)(4)–(6).

Clarification on Total Payment to Providers. The NPRM proposes to remove language at § 98.45(n)(5) to require Lead Agencies to demonstrate in their CCDF Plan that the total payment to a provider (subsidy payment amount and family co-payment) is not impacted by cost-sharing policies. In other words, Lead Agencies had to describe how the provider's subsidy payment would not decrease because of the lower family co-payments. This clarification was included in the March 2024 final rule in response to comments on the requirement at § 98.45(l)(3) to limit family co-payments to 7 percent of family income and concerns that reductions in family co-payments could reduce the amount received by child care providers. Given that the proposed changes would remove the requirement for States and Territories to limit family

co-payments to 7 percent of family income, this clarification would no longer be needed. Lead Agencies would continue to be required to set payment rates at levels that provide CCDF families equal access to child care services that are comparable to care provided to children whose parents are not eligible for CCDF.

Subpart F—Use of Child Care and Development Funds

§ 98.50 Child Care Services

This NPRM proposes to revise § 98.50(a)(3) by deleting “including grants or contracts for slots for children in underserved geographic areas, for infants and toddlers, and children with disabilities. Grants solely to improve the quality of child care services like those in (b) of this section would not satisfy the requirements at § 98.30(b).” This proposed deletion conforms with the proposed rescission at § 98.30(b), discussed earlier in this preamble, that would remove the requirement for Lead Agencies to provide some child care services through grants or contracts.

This NPRM also proposes conforming changes at § 98.50(b) by deleting “the following designated amounts cannot be used to satisfy the requirements at § 98.30(b)” from the introductory language and deleting (b)(4) completely. This regulatory language would no longer be relevant if the proposed change to remove the requirement for grants or contracts is finalized.

Subpart I—Indian Tribes

This subpart addresses requirements and procedures for Indian Tribes and Tribal organizations applying for or receiving CCDF funds and serves as the Tribal summary impact statement as required by Executive Order 13175.⁷ The proposed amendments in this subpart are conforming changes and would not change requirements for Tribal CCDF Lead Agencies.

§ 98.81 Application and Plan Procedures and § 98.83 Requirements for Tribal Programs

Paragraphs 98.81(b)(6) and 98.83(d)(1) specify from which provisions all Tribal Lead Agencies are exempted. All Tribal Lead Agencies are already exempted from the previous requirement to provide some direct services through grants or contracts. Because this NPRM would rescind the requirements for States and Territories to provide services through grants or contracts, the provisions exempting Tribal Lead

⁵ U.S. Department of Health and Human Services. Office of the Inspector General. (August 2019). States' Payment Rates Under the Child Care and Development Fund Program Could Limit Access to Child Care Providers (Report in Brief OEI–03–15–00170). <https://oig.hhs.gov/oei/reports/oei-03-15-00170.pdf>.

⁶ Slicker, G., Areizaga Barbieri, C., & Hustedt, J.T. (2023). The Role of State Subsidy Policies in Early Education Programs' Decisions to Accept Subsidies: Evidence from Nationally Representative Data. *Early Education and Development*, 35(4), 859–877. <https://doi.org/10.1080/10409289.2023.2244859>.

⁷ <https://www.federalregister.gov/documents/2000/11/09/00-29003/consultation-and-coordination-with-indian-tribal-governments>.

Agencies from the requirement would no longer be necessary. Therefore, this NPRM proposes to remove §§ 98.81(b)(6)(x), 98.83(d)(1)(i), and 98.83(d)(1)(x).

The NPRM does not propose changes to § 98.83(d)(1)(vi), which exempts all Tribal Lead Agencies from the requirement for a sliding fee scale at § 98.45(l). However, as discussed above, the proposed change would remove the requirement for Tribal Lead Agencies with medium and large allocations that choose to implement cost-sharing and require family co-payments for their CCDF programs to cap family co-payments to 7 percent of the family's income. Currently, no Tribal Lead Agencies with medium or large

allocations set their family co-payments above 7 percent of the family's income. Therefore, this proposed change would have no immediate impact on Tribal Lead Agencies. Tribes with small allocations were already exempt from the requirement to limit family co-payments to 7 percent of income. If the proposed change is finalized, all Tribal Lead Agencies would have maximum flexibility in establishing those co-payment amounts.

V. Regulatory Process Matters

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*, as amended) (PRA), all Departments are required to submit to the Office of

Management and Budget (OMB) for review and approval any reporting or recordkeeping requirements inherent in a proposed or final rule. As required by this Act, we will submit any proposed revised data collection requirements to OMB for review and approval.

The proposed changes would modify the previously approved ACF-118 CCDF State and Territory Plan information collection, but ACF has not yet initiated the OMB approval process to implement these changes. ACF will publish a **Federal Register** notice soliciting public comment on specific revisions to this information collection and the associated burden estimate and will make available the proposed form and instructions for review.

CCDF title/code	Relevant section in the proposed rule	OMB control No.	Expiration date	Description
ACF-118 (CCDF State and Territory Plan).	§ 98.16 (and related provisions)	0970-0114	03/31/2027	The NPRM proposes to rescind requirements which States and Territories are required to report in the CCDF Plans.

The table below provides current approved annual burden hours and

estimated annual burden hours for the existing information collection that

would be impacted if the proposed changes are finalized.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Current approved average burden hours per response	Current annual burden hours	Estimated average burden hours per response based on NPRM	Estimated annual burden hours based on NPRM
ACF-118 (CCDF State and Territory Plan)	56	0.33	150	2,800	150	2,800

Executive Order 13132

Executive Order 13132 requires federal agencies to consult with State and local government officials if they develop regulatory policies with federalism implications. Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government close to the people. This proposed rule would not have substantial direct impact on the States, on the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This NPRM would not pre-empt State law. The changes proposed in the NPRM are increasing flexibilities in administering the CCDF program. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this action does not have sufficient federalism implications

to warrant the preparation of a federalism summary impact statement.

Assessment of Federal Regulations and Policies on Families

Assessment of Federal Regulations and Policies on Families Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105-277) requires federal agencies to determine whether a policy or regulation may negatively affect family well-being. If the agency determines a policy or regulation negatively affects family well-being, then the agency must prepare an impact assessment addressing seven criteria specified in the law. HHS believes it is not necessary to prepare a family policymaking assessment because the actions proposed in this NPRM will not have any impact on the autonomy or integrity of the family as an institution.

VI. Regulatory Impact Analysis

Introduction

We have examined the impacts of the NPRM under Executive Order 12866, Executive Order 13563, Executive Order 14192, the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*).

Executive Orders 12866 and 13563 direct us to assess all benefits and costs of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits. This proposed rule was determined to be significant under Section 3(f) of Executive Order 12866. Executive Order 14192 requires that any new incremental costs associated with significant new regulations “shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations.” This NRPM is considered an E.O. 14192 deregulatory action. We estimate that

this NPRM will generate \$6.1 million in annualized cost savings at a 7 percent discount rate, discounted relative to year 2024, over a perpetual time horizon.

The Regulatory Flexibility Act (RFA) requires agencies to consider the impact of their regulatory proposals on small entities. Consistent with certification of the March 2024 final rule, the Secretary certifies that the changes proposed by this NPRM would not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (UMRA) generally requires that each agency conduct a cost-benefit analysis; identify and consider a reasonable number of regulatory alternatives; and select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule before promulgating any proposed or final rule that includes a Federal mandate that may result in expenditures of more than \$100 million

(adjusted for inflation) in at least one year by State, local, and Tribal governments, in the aggregate, or by the private sector. Each agency issuing a rule with relevant effects over that threshold must also seek input from State, local, and Tribal governments. The current threshold after adjustment for inflation is \$187 million, using the most current (2024) Implicit Price Deflator for the Gross Domestic Product. This NPRM will not result in an expenditure in any year that meets or exceeds this amount.

Background and Summary of Economic Impacts

On July 13, 2023, ACF published a notice of proposed rulemaking (NPRM) that proposed revisions to Child Care and Development Fund (CCDF) regulations.⁸ After considering the public comments, on March 1, 2024, ACF published a published a final rule that made regulatory changes to CCDF (“March 2024 final rule”),⁹ which

contained a regulatory impact analysis (2024 RIA) that reported monetary estimates of the economic impacts. Through this NPRM, ACF is proposing to rescind or modify several of the mandatory provisions of the March 2024 final rule including those relating to enrollment-based payment, 7 percent cap on co-payments, prospective payments, and grants or contracts for direct services. As a starting point for analyzing the impact of this NPRM, we adopt the estimated economic impacts in the March 2024 final rule as capturing the baseline scenario of no further regulatory action. Table 1 reports yearly transfers and costs associated with the relevant requirements of the March 2024 final rule.¹⁰ While the prospective payments policy does not appear as a separate line item in this analysis, its impacts were accounted for in the “systems” cost estimate included in the March 2024 final rule.

TABLE 1—RELEVANT REQUIREMENTS IN THE MARCH 2024 FINAL RULE, TRANSFERS AND COSTS

	2025	2026	2027	2028	2029
Transfers by Year:					
Enrollment-based Payment	\$8.8	\$8.8	\$17.5	\$17.5	\$17.5
7% Co-Payment Cap	8.4	8.4	16.7	16.7	16.7
Total Transfers	17.2	17.2	34.2	34.2	34.2
Costs by Year:					
Grants and Contracts	3.3	3.3	6.5	6.5	6.5
Systems	10.9	10.9	0.0	0.0	0.0
Total Costs	14.2	14.2	6.5	6.5	6.5

By rescinding and modifying specific regulations added by the March 2024 final rule, this NPRM would prevent the occurrence of the estimated transfers and costs reported in the 2024 RIA, with the exception of the anticipated economic impacts in the first year. For the purposes of this analysis, we assume those impacts have already occurred and cannot be recovered, or did not

occur as the result of a temporary transitional waiver of the requirements granted to some States. Thus, when considering the economic impacts of this NPRM, we do not report any impacts on transfers or costs in 2025. In subsequent years, we report the inverse of the monetary estimates identified in Table 1 as the impacts of the NPRM. Table 2 reports these estimates, where

negative costs represent cost savings, and negative transfers represent a reversal of the direction of transfers compared to the 2024 RIA. In this context, transfers under the March 2024 final rule that represented increases in Lead Agency payments to child care providers represent reductions in Lead Agency payments to child care providers.

TABLE 2—ECONOMIC IMPACTS OF THE PROPOSED CHANGES

Year	2025	2026	2027	2028	2029
Total Transfers	\$0.0	– \$17.2	– \$34.2	– \$34.2	– \$34.2
Total Costs	0.0	– 14.2	– 6.5	– 6.5	– 6.5

⁸ Office of Child Care, Administration for Children and Families, Department of Health and Human Services. July 13, 2023. “Improving Child Care Access, Affordability, and Stability in the Child Care and Development Fund (CCDF)” notice of proposed rulemaking. **Federal Register**. 88 FR 45022.

⁹ Office of Child Care, Administration for Children and Families, Department of Health and Human Services. March 1, 2024. “Improving Child Care Access, Affordability, and Stability in the Child Care and Development Fund (CCDF)” final rule. **Federal Register**. 89 FR 15366.

¹⁰ These estimates replicate Table 3 of the 2024 RIA, with all dollar values adjusted to 2024 dollars using the GDP deflator. Bureau of Economic Analysis. National Income and Product Accounts. Table 1.1.9. Implicit Price Deflators for Gross Domestic Product. April 30, 2025 revision.

Over a 5-year time horizon covering 2025 through 2029, we estimate annualized transfers of –\$23.4 million using a 3-percent discount rate and –\$22.8 using a 7 percent discount rate; and annualized costs of –\$6.7 million using a 3-percent discount rate and –\$6.6 million using a 7 percent discount rate. To produce an estimate of cost savings under E.O. 14192, we assume the impacts of the proposed changes on costs in 2029 will extend in perpetuity. We estimate that this NPRM will generate \$6.1 million in annualized cost savings at a 7 percent discount rate, discounted relative to year 2024, in perpetuity.

VII. Tribal Consultation Statement

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, requires agencies to consult with Indian Tribes when regulations have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The discussion in subpart I in section IV of the preamble serves as the Tribal impact statement. We intend to notify Tribal Lead Agencies about the opportunity to provide comment on the NPRM no later than the day of publication.

(Catalog of Federal Domestic Assistance Program Number 93.575, Child Care and Development Block Grant; 93.596, Child Care Mandatory and Matching Funds)

List of Subjects in 45 CFR Part 98

Child care, Grant programs-social programs.

For the reasons set forth in the preamble, ACF proposes to amend 45 CFR part 98 as follows:

PART 98—CHILD CARE AND DEVELOPMENT FUND

- 1. The authority citation for part 98 is revised to read:

Authority: 42 U.S.C. 618, 9857 *et seq.*

* * * * *

- 2. Amend § 98.16 by:

- a. Revising paragraph (x);
- b. Removing paragraphs (y) and (z);
- c. Redesignating paragraphs (aa) through (ll) as paragraphs (y) through (jj); and,
- d. Revising newly redesignated paragraph (cc).

The revisions read as follows:

§ 98.16 Plan provisions.

* * * * *

(x) A description of the Lead Agency's strategies (which may include

alternative payment rates to child care providers, the provision of direct grants or contracts, offering child care certificates, or other means) to increase the supply and improve the quality of child care services for children in underserved areas, infants and toddlers, children with disabilities as defined by the Lead Agency, and children who receive care during nontraditional hours, including whether the Lead Agency plans to use grants and contracts in building supply and how supply-building mechanisms will address the needs identified. The description must identify shortages in the supply of high-quality child care providers, list the data sources used to identify shortages, and describe the method of tracking progress to support equal access and parental choice. If the Lead Agency chooses to employ grants and contracts to meet the purposes of this section, the Lead Agency must provide CCDF families the option to choose a certificate for the purpose of acquiring care;

* * * * *

(cc) A description of payment practices applicable to providers of child care services for which assistance is provided under this part, pursuant to § 98.45(m), including practices to ensure timely payment for services, to delink provider payments from children's occasional absences to the extent practicable, and to reflect generally-accepted payment practices;

* * * * *

- 3. Amend § 98.30 by revising paragraph (b) to read as follows:

§ 98.30 Parental choice.

* * * * *

(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.

* * * * *

- 4. Amend § 98.45 by:

- a. Revising paragraphs (b)(5), (l)(3), and (m); and
- b. Removing paragraph (n).

The revisions read as follows:

§ 98.45 Equal access.

* * * * *

(b) * * *

(5) How co-payments based on a sliding fee scale are affordable, as stipulated at paragraph (l) of this section; if applicable, a rationale for the Lead Agency's policy on whether child care providers may charge additional amounts to families above the required family co-payment, including a

demonstration that the policy promotes affordability and access; analysis of the interaction between any such additional amounts with the required family co-payments, and of the ability of subsidy payment rates to provide access to care without additional fees; and data on the extent to which CCDF providers charge such additional amounts (based on information obtained in accordance with paragraph (d)(2) of this section);

* * * * *

(j) * * *

(3) Provides for affordable family co-payments that are not a barrier to families receiving assistance under this part; and

* * * * *

(m) The Lead Agency shall demonstrate in the Plan that it has established payment practices applicable to all CCDF child care providers that:

(1) Ensure timeliness of payment by either:

(i) Paying prospectively prior to the delivery of services; or

(ii) Paying within no more than 21 calendar days of the receipt of a complete invoice for services.

(2) To the extent practicable, support the fixed costs of providing child care services by delinking provider payments from a child's occasional absences by:

(i) Paying based on a child's enrollment rather than attendance;

(ii) Providing full payment if a child attends at least 85 percent of the authorized time;

(iii) Providing full payment if a child is absent for five or fewer days in a month; or,

(ii) An alternative approach for which the Lead Agency provides a justification in its Plan.

(3) Reflect generally accepted payment practices of child care providers that serve children who do not receive CCDF subsidies, which must include (unless the Lead Agency provides evidence that such practices are not generally-accepted in the State or service area):

(i) Paying on a part-time or full-time basis (rather than paying for hours of service or smaller increments of time); and

(ii) Paying for reasonable mandatory registration fees that the provider charges to private-paying parents.

(4) Ensure child care providers receive payment for any services in accordance with a written payment agreement or authorization for services that includes, at a minimum, information regarding payment policies, including rates, schedules, any fees charged to providers, and the dispute

resolution process required by paragraph (m)(6);

(5) Ensure child care providers receive prompt notice of changes to a family's eligibility status that may impact payment, and that such notice is sent to providers no later than the day the Lead Agency becomes aware that such a change will occur; and,

(6) Include timely appeal and resolution processes for any payment inaccuracies and disputes.

■ 5. Amend § 98.50 by:

■ a. Revising paragraphs (a)(3);

■ b. Revising paragraph (b) introductory text; and

■ c. Removing paragraph (b)(4).

The revisions and addition read as follows:

§ 98.50 Child care services.

(a) * * *

(3) Using funding methods provided for in § 98.30; and

* * * * *

(b) * * *

(4) [Removed]

* * * * *

■ 6. Amend § 98.81 by:

■ a. Removing paragraph (b)(6)(x);

■ b. Redesignation (b)(6)(xi) and (b)(6)(xii) as (b)(6)(x) and (b)(6)(xi); and,

■ c. Revising newly redesignated (b)(6)(xi).

§ 98.81 Application and Plan procedures.

* * * * *

(b) * * *

(6) * * *

(xi) The description of provider payment practices at § 98.16(cc).

* * * * *

■ 7. Amend § 98.83 by:

■ a. Removing (d)(1)(i);

■ b. Redesignating (d)(1)(ii) to (d)(1)(ix) as (d)(1)(i) to (d)(1)(viii);

■ c. Removing (d)(1)(x); and,

■ c. Redesignating (d)(1)(xi) to (d)(1)(xiv) as (d)(1)(ix) to (d)(1)(xii).

Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

[FR Doc. 2025–24272 Filed 1–2–26; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 251121–0173]

RIN 0648–BM88

Atlantic Highly Migratory Species; Revisions to Commercial Atlantic Blacknose and Recreational Atlantic Shark Fisheries Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing several changes for commercial and recreational Atlantic shark fisheries. Specifically, NMFS is considering options to remove the blacknose shark management boundary in the Atlantic region, modify the commercial retention limit for blacknose sharks in the Atlantic region, revise the recreational minimum size limits for Atlantic shark species, and revise the recreational retention limits for Atlantic shark species. In this action, NMFS would also remove commercial management group quota linkages, consistent with Amendment 14 to the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), and make technical changes to clarify certain HMS regulations. This action is responsive to the framework for implementing management measures established in Amendment 14, findings from the Atlantic Shark Fishery Review (SHARE) document, public comments from scoping for Amendment 16 to the HMS FMP, and recent domestic laws and international agreements that are having direct and indirect impacts on shark fisheries. The goal of this action is to increase management flexibility to react to changes in the Atlantic shark fisheries and optimize the ability of the commercial and recreational shark fisheries to harvest quota to the extent practicable.

DATES: Written comments must be received by March 6, 2026.

ADDRESSES: A plain language summary of this proposed rule is available at: <https://www.regulations.gov/docket/NOAA-NMFS-2024-0039>. You may submit comments on this document, identified by NOAA–NMFS–2024–0039, by electronic submission. Submit all electronic public comments via the

Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter “NOAA–NMFS–2024–0039” in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

NMFS will hold two public hearing via conference call/webinar on this proposed rule. For specific location, date and time, see the **SUPPLEMENTARY INFORMATION** section of this document.

Additional information related to this proposed rule, including electronic copies of the supporting documents are available from the HMS Management Division website at <https://www.fisheries.noaa.gov/action/proposed-rule-revisions-commercial-atlantic-blacknose-and-recreational-atlantic-shark> or by contacting Ann Williamson (ann.williamson@noaa.gov) by phone at 301–427–8503.

FOR FURTHER INFORMATION CONTACT: Guy DuBeck (guy.dubeck@noaa.gov), Ann Williamson (ann.williamson@noaa.gov), or Karyl Brewster-Geisz (karyl.brewster-geisz@noaa.gov) at 301–427–8503.

SUPPLEMENTARY INFORMATION: NMFS, on behalf of the Secretary of Commerce, is responsible for managing Federal Atlantic HMS fisheries (i.e., sharks, tunas, billfish and swordfish), pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (ATCA) (16 U.S.C. 971 *et seq.*). The term HMS is defined at 16 U.S.C. 1802(21), and the provisions for the management of HMS are found at 16 U.S.C. 1854(g)(1). ATCA is the implementing statute for binding recommendations of the International Commission for the Conservation of Atlantic Tunas. NMFS manages HMS fisheries under the HMS FMP and its amendments. HMS implementing regulations are at 50 CFR part 635.

NMFS is proposing several changes for commercial and recreational Atlantic shark fisheries. This action is responsive