

Wednesday, February 4, 2026

Robert F. Kennedy, Jr.  
Secretary of United States Department of Health and Human Services

RE: Docket number 2025-24272 / RIN number 0970-AD20; Restoring Flexibility in the Child Care and Development Fund (CCDF) - A Proposed Rule by the Department of Health and Human Services on 01/05/2026

Dear Secretary Kennedy,

The Child Care and Development Fund (CCDF) is a crucial program that brings child care within reach for families with low incomes, especially as the cost of care skyrockets across the country. Communities nationwide depend on the viability of this program, the stability it can offer providers and early educators, and the early learning services that help set children up for success in school and beyond.

The 2024 rule – [Improving Child Care Access, Affordability, and Stability in the Child Care and Development Fund](#) – was developed specifically to address the widespread and mounting affordability crisis in the child care sector, insufficient and delayed payments for providers, and inadequate child care supply that limits options for families.<sup>1</sup> The provisions included in that rule were developed on the basis of extensive data, research, and feedback from both the field and parents, and were aimed at maximizing program participation, boosting parent choice of care type, and improving program integrity.

At a time when care remains out of reach for families<sup>2</sup> – and many face significant barriers to affording basic needs, like housing, health care, and food<sup>3</sup> – rolling back the 2024 provisions will only weaken the sector, drive more early educators from the field, and fuel higher costs for families. **Therefore, we – the undersigned organizations and individuals from the state of Colorado – oppose the proposed rule and urge the Administration for Children and Families to preserve these provisions by withdrawing [this proposed rule](#). Further, we urge the Trump Administration to partner with Congress to increase investments in CCDF in support of children, families, providers, and the economy.**

The signatories of this comment are dedicated state advocacy organizations; membership organizations representing parents, providers, and early educators; child care and early learning

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<sup>1</sup> Office of Child Care, Administration for Children and Families, “2024 CCDF Final Rule: Improving Child Care Access, Affordability, and Stability in the Child Care and Development Fund,” <https://acf.gov/occ/outreach-material/2024-ccdf-final-rule>.

<sup>2</sup> RAPID Survey Project, “Parents of young children report widespread disruptions and challenges to child care access,” <https://rapidsurveyproject.com/article/parents-of-young-children-report-widespread-disruptions-and-challenges-to-child-care-access/>.

<sup>3</sup> Nani Oesterle, “Stanford Survey Shows Families with Young Children – and their Caregivers – Increasingly Struggle to Meet Basic Needs,” <https://www.hiltonfoundation.org/learning/stanford-survey-shows-families-with-young-children-and-their-caregivers-increasingly-struggle-to-meet-basic-needs/>.

programs; and other child-serving organizations dedicated to creating a comprehensive, equitable, and well-funded child care system that supports all families and providers in Colorado. We offer deep expertise in the various challenges of existing child care policy as well as the solutions to improve it. We are submitting comments for consideration to ensure child care systems across the country will continue to implement policies that best serve children, families, and providers.

## Introduction

Rolling back the 2024 rule will weaken the program, undermining its intended purpose and curtailing its ability to meet its statutory requirements. Moreover, rolling back these provisions will have an outsized impact on smaller providers, both center-based and home-based, who operate on small margins and benefit from more stable and consistent payment practices. Further, the proposed rule would result in greater costs and burdens on parents and families with low incomes, who rely on the program to work, go to school, and provide for their families.

Ultimately, state leaders, advocates, and child care experts, in consultation with families, understand best what the field needs to ensure program integrity, improve access, and support children's early learning, and the regulatory requirements for the program should reflect those insights. The proposed rule would have the opposite effect, failing to consider the expertise of the early childhood community or the significant costs and burdens that the proposed rule would have on children, families, providers, and broader communities – and undermining the efforts of state administrators who have already begun implementation of the 2024 rule changes to pay providers more fairly and promote access to early learning.

## Colorado Context

Access to high-quality and affordable child care benefits communities in various ways; impacts children, families, and the child care workforce; and supports the nation's economic prosperity. Ensuring parents have secure care for their child(ren) while pursuing job opportunities or educational pursuits not only benefits families but our entire economy. CCDF is a lifeline for families who receive it, but far too few families who are eligible actually receive support due to the lack of adequate funding for this vital program. Only one in six children eligible for child care assistance under federal law received it as of data from 2021.<sup>4</sup> In Colorado, only about 11 percent of potentially-eligible children under state law actually received child care subsidies in fiscal year 2024-25.<sup>5</sup>

Colorado's child care system was under-resourced and struggling even before the COVID-19 crisis. Data from 2016-2020 estimated that licensed child care providers across all settings only

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<sup>4</sup> Office of the Assistant Secretary for Planning and Evaluation, "Factsheet: Estimates of Child Care Eligibility & Receipt for Fiscal Year 2021," September 2024, <https://aspe.hhs.gov/reports/child-care-eligibility-fy2021>.

<sup>5</sup> Colorado Department of Early Childhood, "FY 2024-25 Annual Report on the Colorado Child Care Assistance Program," November 1, 2025, [https://drive.google.com/file/d/1ME0FJpG1ttWoq\\_Fee0NsbnsSpZ20Lgk0e/view](https://drive.google.com/file/d/1ME0FJpG1ttWoq_Fee0NsbnsSpZ20Lgk0e/view).

had the capacity to serve about 60 percent of the young children under the age of 6 that likely needed care across Colorado.<sup>6</sup> The pandemic simply exacerbated all of the challenges the sector already faced by creating new challenges and obstacles to the daily lives of children, families, and providers. Today, licensed child care capacity in Colorado has largely rebounded since the early days of the COVID-19 pandemic similar to other sectors; however, providers are still facing extreme challenges in hiring and retaining qualified staff. Historical underinvestment in the child care industry results in a sector that yields little-to-no profit margins and pays extremely low wages to staff in spite of the high costs families face to access quality care.

The federal stimulus funding, particularly from the American Rescue Plan Act (ARPA), infused an unprecedented amount of additional funding into Colorado's child care system. The funds were a lifeline for the entire child care industry and the families that need help to afford care. However, with the expiration of these one-time funds, states are yet again facing extreme fiscal challenges in their child care assistance programs. These fiscal challenges are not new and are not a result of the 2024 final rule but rather the cumulative effects of decades of inadequate funding. These challenges will only be exacerbated in Colorado given the significant tax policy changes and cuts to federal funding for public programs – specifically Medicaid and SNAP – made by H.R. 1.<sup>7</sup>

As was noted during the 2023 NPRM process leading up to the final 2024 rule, states have long operated with insufficient federal investments in CCDF. We recognize that true long-term, systemic changes require Congressional action and significant investment and therefore could not be achieved by only the 2024 change in rule. However, the changes provided a crucial movement in the right direction. The 2024 rule set guardrails to ensure improved affordability, access, and provider stability within the statute. Rolling back these provisions in response to funding gaps does not address the underlying problem. Instead, it risks further destabilizing the care that children, families, and providers rely on.

In Colorado, advocates, policy-makers, and agency leaders have been working hard to make dramatic improvements to the Colorado Child Care Assistance Program (CCCAP) for over a decade. The policy improvements in the 2024 final rule reflect positive steps forward for which child care experts, providers, and families have been advocating for many years at both the federal and state levels. However, given the lack of additional funding, Colorado did anticipate ongoing challenges in implementing the 2024 rule changes and therefore requested and received approval for a transitional and legislative waiver for eligible provisions in the 2024 CCDF Final Rule by the federal Office of Child Care.

Child care is a major economic driver in Colorado, employing thousands of educators and supporting the ability of parents to work or further their careers through education. Research

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<sup>6</sup> Colorado Children's Campaign analysis of data from the U.S. Census Bureau's 2016-2020 American Community Survey and the Colorado Office of Early Childhood.

<sup>7</sup> The Office of Governor Jared Polis, "EXECUTIVE ORDER: Call for the First Extraordinary Session of the Seventy-Fifth General Assembly and Directing a Statewide Hiring Freeze," August 2025, <https://drive.google.com/file/d/1kx5-WNwRYMD7K33IJQEqaSm6RsMUBb0X/view>.

has found that the lack of adequate child care for infants and toddlers imposes substantial and long-lasting economic consequences in Colorado. Effects are felt by parents, businesses, and the state's taxpayers, with an annual economic cost of \$2.7 billion in lost earnings, productivity, and revenue.<sup>8</sup> The Common Sense Institute's research suggests that a 20 percent reduction in parents using child care assistance due to underfunding could lead to a \$1.1 billion decline in GDP and a loss of 7,300 jobs by 2029.<sup>9</sup> Further, child care challenges lead to roughly 2.5 hours of lost work time per week for parents, and businesses are facing an average loss of \$1,640 per working parent annually due to absences and turnover due to child care issues.<sup>10</sup> The state loses about \$420 per parent in decreased income tax and reduced sales tax revenue as parents earn and spend less.<sup>11</sup> Therefore, federal, state, and local governments have a fiduciary responsibility to support the provision of child care.

**Below, you can find our comments on specific provisions outlined in the proposed rule.**

We have included various considerations on the proposed rules by section, and our comments focus solely on the proposals and modifications in the NPRM and are not exhaustive of the broader negative economic, health, and educational implications for children, families, and providers throughout Colorado communities.

## Comments on Specific Provisions

### Repeal of the 7 Percent Cap on Family Co-payments

- **The proposed rule repeals the following provision from the 2024 final rule:**  
§ 98.45(l)(3) Provides for affordable family co-payments that are not a barrier to families receiving assistance under this part, not to exceed 7 percent of income for all families, regardless of the number of children in care who may be receiving CCDF assistance.

Research indicates that, for families with low incomes, the cost of child care is a barrier to access at any co-payment level.<sup>12</sup> Families with low incomes spend an average of 35 percent of their income on child care costs, while families with higher incomes spend seven percent of their income on average, according to data from the Survey of Income and Program Participation. Needing to spend higher percentages of income on care demonstrates that child care is particularly unaffordable for families who are eligible for CCDF, and higher costs lead to tighter budgets and harder decisions for families who are already in a challenging financial position. This is especially true for families throughout Colorado, as we are currently the third most

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<sup>8</sup> Council for a Strong America - ReadyNation, "\$2.7 Billion: The Growing, Annual Cost of the Infant-Toddler Child Care Crisis in Colorado," April 2024, <https://www.strongnation.org/articles/2352-2-7-billion-the-growing-annual-cost-of-the-infant-toddler-child-care-crisis-in-colorado>.

<sup>9</sup> Common Sense Institute, "The Economic Impacts of Lost Child Care Assistance in Colorado," October 2025, <https://www.commonseminstituteus.org/colorado/research/workforce/the-economic-impacts-of-lost-child-care-assistance-in-colorado>.

<sup>10</sup> Council for a Strong America - ReadyNation, "Want to Grow Colorado's Economy? Fix the Child Care Crisis," May 2020, <https://www.strongnation.org/articles/1153-want-to-grow-colorado-s-economy-fix-the-child-care-crisis>.

<sup>11</sup> Ibid.

<sup>12</sup> Gina Adams and Eleanor Pratt, "Assessing Child Care Subsidies through an Equity Lens: A Review of Policies and Practices in the Child Care and Development Fund," September 2021, <https://www.urban.org/sites/default/files/publication/104777/assessing-child-care-subsidies-through-an-equity-lens.pdf>

expensive state in the nation, and housing is 15 percent higher than the national average.<sup>13</sup> Eliminating affordability parameters for families receiving CCDF subsidies needlessly opens the door to increased co-payments that can impede the intended purpose of the law to “best suit the needs of children and parents,” (42 U.S.C. 9857(b)(1)).

Based on the 2025–2027 CCDF State Plans, 34 states and the District of Columbia indicate their maximum co-payment is at or below seven percent, while most remaining states have temporary waivers – including Colorado.<sup>14</sup> This widespread adoption demonstrates that states recognize the importance of keeping co-payments affordable and have been able to implement this requirement within a short timeframe and without undue burden.

For Colorado, we utilized COVID-19 stimulus funding to decrease the maximum copayment amount from 14 percent to 10 percent of a family’s gross income, with the sliding scale adjusted accordingly. Evaluation showed that this policy helped families save an average of \$127 each month.<sup>15</sup> Further, in 2024, Colorado passed [House Bill 1223](#) to codify the seven percent cap on copayments in state statute and has already drafted a new copayment structure for state regulations. Maintaining a clear affordability threshold therefore builds on existing state practice and supports the work that has already taken place to come into compliance.

Families who have multiple children receiving a subsidy would be hit the hardest by the proposed rule, which eliminates previous guidance that caps the copayment at seven percent “regardless of the number of children in care who may be receiving CCDF assistance,” (§ 98.45(l)(3)). In fiscal year (FY) 2022, approximately 1.4 million children from 870,900 families received CCDF child care assistance per month nationally.<sup>16</sup> In Colorado in FY 2024-25, there were 27,598 children from 18,352 families statewide utilizing CCCAP at any point during the fiscal year – meaning that a significant portion of families with more than one child receiving assistance could see their costs increase dramatically under new regulations.<sup>17</sup>

The seven percent cap translates statutory intent that “co-payments should not be a barrier to families receiving CCDF assistance” into a measurable threshold (Section 658E(c)(5)). This rescission would ultimately force a number of families to base child care decisions on cost rather than on the option that best meets their needs or even lose access to child care altogether. As the 2024 rule recognized (*see 89 Fed. Reg. at 15*), increased barriers to affordable child care jeopardize the ability of many parents, and especially mothers, to reenter the workforce, work more hours, or otherwise support themselves and their families. Further,

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<sup>13</sup> Colorado Chamber of Commerce, “Colorado Scorecard,” December 2025, <https://cochamber.com/scorecard/>.

<sup>14</sup> Child Care Aware of America, “A Snapshot of State Responses in Draft CCDF Plans,” <https://info.childcareaware.org/hubfs/SnapshotofStateCCDFPlanResponsesUpdated.pdf>.

<sup>15</sup> Colorado Department of Early Childhood, “CCCAP: Reduced Copays,” September 2023, <https://cdec.colorado.gov/cccap-reduced-copays>.

<sup>16</sup> Office of Child Care, Administration for Children and Families, “FY 2022 Preliminary Data Table 1 - Average Monthly Adjusted Number of Families and Children Served,” January 2025, <https://acf.gov/occ/data/fy-2022-preliminary-data-table-1>.

<sup>17</sup> Colorado Department of Early Childhood, “FY 2024-25 Annual Report on the Colorado Child Care Assistance Program,” November 1, 2025, [https://drive.google.com/file/d/1ME0FJpG1ttWoq\\_Fee0NsbnsSpZ20Lgk0e/view](https://drive.google.com/file/d/1ME0FJpG1ttWoq_Fee0NsbnsSpZ20Lgk0e/view).

without defining “barriers to access” clearly, the proposed language creates inconsistency and inequities across states and territories in affordability and access. As families face inflation and a rising cost of living, it is important not to remove the guardrails that protect CCDF’s affordability.

### **Repeal of the Requirement to Use Some Grants or Contracts for Direct Services**

- **The proposed rule repeals the following provision from the 2024 final rule:**

- § 98.30(b)(1) Lead Agencies shall increase parent choice by providing 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.

There is a serious shortage of child care across the country, particularly for families living in low-income or rural areas, families with infants and toddlers, children with disabilities, and families in need of non-traditional hour care – despite the importance of reliable, quality child care for the healthy development of these children and the well-being of their families.<sup>18</sup>

- There are 14.8 million children nationwide in need of child care, compared to 10.8 million licensed child care slots – and the gap in supply is wider in rural areas.<sup>19</sup>
- There are an estimated 2.2 million children ages 5 and under who have a reported disability,<sup>20</sup> yet their families struggle to access child care; 34 percent of parents of children with disabilities experience at least some difficulty finding child care, compared to 25 percent for parents with nondisabled children.<sup>21</sup>
- 43 percent of children in the U.S. have a parent working non-traditional hours,<sup>22</sup> yet only 34 percent of listed home-based providers and just eight percent of center-based providers offer non-traditional hour care.<sup>23</sup>

Grants and contracts can be an effective tool and strategy for addressing the shortage of these and other types of care, helping increase the supply, stability, and quality of child care by reducing provider uncertainty (42 U.S.C. 9858c(c)(2)(M)). Grants and contracts can also

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<sup>18</sup> Annie D. Schoch, Cassie S. Gerson, Tamara Halle, and Meg Bredeson, “Children’s Learning and Development Benefits from High Quality Early Care and Education: A Summary of the Evidence,” U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, August 2023, <https://www.acf.hhs.gov/sites/default/files/documents/opre/232023-226%20Benefits%20from%20ECE%20Highlight%20508.pdf>.

<sup>19</sup> Buffet Early Childhood Institute, Child Care Aware of America, and Bipartisan Policy Center, “New Interactive Reveals 4.2 Million Children Nationwide Lack Access to Child Care, Costing U.S. Economy up to \$329 Billion,” September 2025, <https://buffettinstitute.nebraska.edu/news-and-events/news/2025/09/new-interactive-map-reveals-42-million-children-nationwide-lack-access-to-child-care>.

<sup>20</sup> Government Accountability Office, “Child Care Accessibility: Agencies Can Further Coordinate to Better Serve Families with Disabilities,” September 2024, <https://www.gao.gov/products/gao-24-106843>.

<sup>21</sup> Cristina Novoa, “The Child Care Crisis Disproportionately Affects Children with Disabilities,” Center for American Progress, January 2020, <https://www.americanprogress.org/article/child-care-crisis-disproportionately-affects-children-disabilities/>.

<sup>22</sup> Brian Knop, “Parents Burning the Midnight (and Weekend) Oil,” November 2017, [https://www.census.gov/newsroom/blogs/random-samplings/2017/11/parents\\_burning\\_the.html](https://www.census.gov/newsroom/blogs/random-samplings/2017/11/parents_burning_the.html).

<sup>23</sup> National Survey of Early Care and Education Project Team, Fact Sheet: Provision of Early Care and Education During Non-Standard Hours (OPRE Report #2015-44) (Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research and Evaluation, 2015), <https://acf.gov/opre/report/fact-sheet-provision-early-care-and-education-during-non-standard-hours>.

improve parent choice by expanding the range of quality options in communities where currently few are available – such as low-income neighborhoods and rural communities. This also enhances the resources available to a wide range of providers who would not otherwise be able to provide care where there are shortages.

In Colorado, we utilized stimulus funding to support grant programs to incentivize the provision of care for infants and toddlers, non-traditional hours, and children with special needs, due to the increased costs associated with meeting these families' needs. Through these grants, we encouraged providers to maintain, expand, or begin to offer care in these areas. Some examples of these successful stimulus activities include:

- Employer-Based (EB) and Emerging and Expanding (E&E) Child Care Grant Programs: 370 providers from 37 counties received E&E grant funding. In fiscal year 2021-2022, the E&E program created 5,459 new child care slots. Notably, 1,643 of the newly created slots were specifically designated for infants and toddlers, a group for whom child care is relatively scarce despite family demand. Outreach efforts succeeded in encouraging both existing and new child care providers to apply for the grants. The first round of E&E grantees included 45 new centers and 50 new family child care homes (FCCHs). 20 EBCC Grants were awarded in 15 counties. 1000 new slots were estimated to be in place by the end of June 2024. This expanded child care capacity also supported areas of the state that lacked slots, as 88 percent of these child care slots were added in parts of the state designated as licensed child care deserts.<sup>24</sup>
- Child Care Stabilization Grants: These grants helped offset existing operational expenses for child care providers, and providers were encouraged to pass along financial relief to families in their care. These funds were critical to steadying the child care sector and sustaining the early childhood workforce through the pandemic. Providers also received additional bonus payments for serving infants and toddlers and children with disabilities, as well as providing services outside of regular business hours. Just under 3000 providers were awarded grants. For these providers, closure rates reduced to pre-pandemic levels; most providers maintained or increased starting wages for staff, and the majority provided tuition relief, saving families an average of about \$475 after six months.<sup>25</sup>
- Access to Inclusive Care - Project Include: The 2020 Colorado Shines Brighter Needs Assessment showed that one in seven Colorado parents identified their child as having a delay, disability, or special need. Of those, one third indicated that their preferred child care provider was unable to accommodate their child. Unfortunately, most providers experience limited professional development support for learning to modify classroom environments and materials to be accessible for all children.<sup>26</sup> By providing licensed

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<sup>24</sup> University of Denver Colorado Evaluation & Action Lab, "Stimulus Evidence Building Brief: Emerging and Expanding Grants, Employer-Based Child Care Grants," September 2023, <https://cdec.colorado.gov/emerging-and-expanding-grants>.

<sup>25</sup> University of Denver Colorado Evaluation & Action Lab, "Stimulus Evidence Building Brief: Child Care Stabilization Grants," September 2023, <https://cdec.colorado.gov/child-care-stabilization-grants>.

<sup>26</sup> Colorado Office of Early Childhood and Colorado Health Institute, "Colorado Shines Brighter: Opportunities for Colorado's Early Childhood System," December 2019,

child care providers access to Project Include along with coaching and technical assistance, overburdened providers serving children with delays and disabilities received the needed on-demand, digestible content with flexibility in the level and rate of learning to keep high levels of participation.<sup>27</sup>

Again, in 2024, Colorado passed [House Bill 1223](#) to codify the use of grants and contracts in state statute, and the state has already started discussing implementation of this change through a state rule rewrite committee to codify it into state regulations. While the bill is dependent upon receipt of federal funding to support this policy, the codification and discussions in the existing rule rewrite committee show that the State of Colorado has already taken steps towards implementation.

Most child care assistance is made available to parents through vouchers or certificates, which they can use for the care of their choosing, and vouchers and certificates would continue to be widely available to parents in all states even with current regulations requiring some use of contracts. Contracts simply add an option for those parents who are left without choices because the child care options they need are not available. By offering providers greater financial stability and predictability, contracts help build the supply of child care, particularly the types of care that are in shortest supply.<sup>28</sup>

### **Repeal of the Requirement to Pay Child Care Providers Prospectively**

- **The proposed rule repeals the following provision from the 2024 final rule:**  
§ 98.45(m)(1) Ensure timeliness of payment to child care providers by paying in advance of or at the beginning of the delivery of child care services to children receiving assistance under this part;

Paying child care providers prospectively – either in advance of or at the start of service delivery – offers significant benefits for both providers and families. Prospective payment helps to stabilize child care operations, increase family choice by supporting a broader supply of care options, and align subsidy payment practices with those used by private-pay families. Private-pay families commonly pay for child care services weekly, bi-weekly, or monthly in advance of care. A survey conducted by the National Association for the Education of Young Children (NAEYC) found that 77 percent of child care directors and administrators require

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<https://dcfs.my.salesforce.com/sfc/p/#410000012srR/a/4N000000AGxx/QPNqI9n15kNbYRhObm7zKcWoPajUElvqWkrdaeSJdHY>.

<sup>27</sup> University of Denver Colorado Evaluation & Action Lab, “Stimulus Evidence Building Brief: Project Include,” September 2023, <https://cdec.colorado.gov/access-to-inclusive-care>.

<sup>28</sup> State Subsidy Policies in Early Education Programs’ Decisions to Accept Subsidies: Evidence from Nationally Representative Data,” 2023, *Early Education and Development* 35 (4): 859–77. doi:10.1080/10409289.2023.2244859; Roberta Weber and Deana Grobe, “Contracted Slots Pilot Program Evaluation: Final Report,” Oregon State University, Family Policy Program, November 2015, <https://health.oregonstate.edu/sites/health.oregonstate.edu/files/occrp/pdf/cs-final-report-11-30-2015.pdf>; Kate Giapponi Schneider, Marji Erickson Warfield, Pamela Joshi, Yonsook Ha, and Dominic Hodgkin, “Insights into the Black Box of Child Care Supply: Predictors of Provider Participation in the Massachusetts Child Care Subsidy System,” 2017, *Children and Youth Services Review* 79: 148-159, <https://www.sciencedirect.com/science/article/abs/pii/S0190740917300750>.

families to pay prospectively.<sup>29</sup> In contrast, many states – including Colorado – reimburse providers serving children in the subsidy system only after care has been delivered, often weeks later. These delays can create significant financial strain and threaten program stability. Providers have reported that slow reimbursement makes participation in the subsidy system challenging, leading some to limit the number of children receiving subsidies or to forgo participation altogether. This is especially true for FCCH providers, whose smaller profit margins limit flexibility in covering basic operating expenses such as rent, mortgage costs, utilities and supplies, and compliance-related expenses that require up-front payment.

[House Bill 1223](#) also codified the use of prospective payments in state statute, and Colorado has already started discussing implementation of this change through a state rule rewrite committee to codify it into state regulations. While the bill is dependent upon receipt of federal funding to support this policy given the changes needed to our state’s technical infrastructure, the codification and discussions in a rule rewrite committee show that the State of Colorado has already taken steps towards implementation. Additionally, several states have implemented prospective payment models, including Hawaii, Kansas, Maine, Maryland, New Hampshire, North Dakota, South Carolina, Utah, Texas, and Wisconsin – and many providers in these states have grown to rely on this model in developing and implementing their programs.<sup>30</sup>

Implementing prospective payments for child care subsidies better aligns subsidy policies with standard private-pay practices and supports providers’ ability to manage ongoing expenses. According to the same NAEYC survey, 73 percent of child care leaders indicated they would be more likely to accept families using subsidies if states paid providers in advance of services.<sup>31</sup> Improved payment practices, such as prospective payments, can strengthen the supply of child care and expand family choice in addition to stabilizing providers’ businesses. In contrast, rescission of this requirement would destabilize child care operations while decreasing child care options and family choice.

### **Repeal of the Requirement to Pay Child Care Providers Based on a Child's Enrollment Rather Than Attendance**

- **The proposed rule repeals the following provision from the 2024 final rule:**  
§ 98.45(m)(2) Support the fixed costs of providing child care services by delinking provider payments from a child's occasional absences by: (i) Basing payment on a child's authorized enrollment; or, (ii) An alternative approach for which the Lead Agency provides a justification in its Plan that the requirements at paragraph (m)(2)(i) of this section are not practicable, including evidence that the alternative approach will not undermine the stability of child care programs.

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<sup>29</sup> NAEYC, “Improving Child Care Access, Affordability, and the Child Care and Development Fund (CCDF): A Proposed Rule by the Department of Health and Human Services on 7/13/2023,” August 2023, [https://www.naeyc.org/sites/default/files/wysiwyg/user-73607/naeyc\\_nprm\\_comments.final.pdf](https://www.naeyc.org/sites/default/files/wysiwyg/user-73607/naeyc_nprm_comments.final.pdf).

<sup>30</sup> Child Care Aware of America, “ECE Policy Across the U.S., 2020-Present,” January 2026, <https://www.childcareaware.org/state-policy-dashboard/>.

<sup>31</sup> NAEYC, “Improving Child Care Access, Affordability, and the Child Care and Development Fund (CCDF): A Proposed Rule by the Department of Health and Human Services on 7/13/2023.”

As with paying providers prospectively, paying providers based on enrollment represents best and common practice for child care programs and benefits providers and families. For providers, enrollment-based payment practices allow for stability in planning and budgeting for child care businesses and prevent programs from losing funding due to occasional absences, which can occur for a variety of reasons, such as illness or travel. Child care businesses already operate on thin profit margins and high fixed costs related to staffing and space, and those costs do not go down if a child is absent for several days for any reason.

Requiring payment based on enrollment doesn't just benefit child care programs but also families who receive subsidy dollars by maximizing choice and minimizing risk of financial uncertainty. Child care providers do not have to accept subsidy dollars, but a 2023 survey by NAEYC found that 80 percent of child care program administrators would be more likely to serve families utilizing subsidies if providers were paid by enrollment rather than attendance.<sup>32</sup> Similarly, in states where providers are allowed to charge families more than their co-payment, providers can charge families for the full cost of an absent day not covered by subsidy or cover the cost themselves. This increases the financial hit a family might face if they were to miss work due to a sick child or increases the risk of them losing the care that allows them to work. Enrollment-based payment practices protect working families from unpredictable financial burdens.

Beyond the practical reasons for paying based on enrollment, requiring states to do so represents best alignment with the underlying statute governing CCDF, which requires lead agencies to certify that payment practices under the subsidy program reflect generally accepted payment practices of providers in the state who do not accept child care assistance. Because of the reasons described above, enrollment-based pay does represent by far the most commonly accepted payment practice for providers only operating in the private market.

States are already making important progress towards embracing enrollment-based payment, with 24 states and DC doing so as of 2026. And importantly, for states that have moved towards enrollment-based payment, an analysis from Child Care Aware of America and New America found that those practices had a stabilizing effect for providers that rely on this structure.<sup>33</sup>

Beginning July 1, 2022, providers receiving CCCAP were paid based on enrollment – not attendance – for infants and toddlers (ages 0-3) to help stabilize child care businesses and improve access to care for infants and toddlers. This policy change has decreased the administrative burden on counties and providers given the reduction in the number of manual claims that need to be submitted simply by paying for enrollment.<sup>34</sup> Evaluation of the enrollment-based payments policy showed signs of success in increasing infant and toddler enrollment in CCCAP. Between July 2022 and June 2023, 4,222 infants and toddlers were enrolled in

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<sup>32</sup> Ibid.

<sup>33</sup> Child Care Aware of America, "Child Care Payments: Attendance Vs. Enrollments," June 2021, <https://info.childcareaware.org/blog/child-care-payments-attendance-vs.-enrollments>.

<sup>34</sup> Colorado Department of Human Services, *Operation Memo: CCCAP Stimulus Strategy Activities*, accessed <https://drive.google.com/file/d/1JCizuCmBqtcutgXhQbPzcSEHml0uHcb/view>.

CCCAP, representing an increase of 330 infants and toddlers compared to the prior fiscal year. Counties spent an additional \$5.5 million on infant/toddler enrollment-based payments – payments that went directly to child care providers in supporting the success of their business.<sup>35</sup>

We appreciate that the NPRM acknowledges the importance of continuing to prioritize delinking provider payments from occasional absences, as required under statute. However, continuing to require states to pay providers based on authorized enrollment rather than reverting back to previous measures maximizes family choice and supports the stability of child care programs.

## Conclusion

A robust, well-resourced, and stable child care and early learning system helps children and families thrive. CCDF is a crucial part of that system, and the 2024 regulatory changes that promoted fair payment practices for providers, eased administrative burdens around enrollment, and limited the cost burden for families with low incomes were a critical step toward strengthening the sector and improving both access and affordability. Undermining those provisions by rescinding four key policies as proposed in this rule will have the reverse effect: weakening the system, making it harder for providers to stay afloat, and further limiting options and jeopardizing access to child care for vulnerable families. The proposed rule would impose significant costs and burdens on children, families, providers, and broader communities – which the proposed rule has failed to address or meaningfully consider in its summary. **We therefore urge the Administration for Children and Families to preserve these provisions by withdrawing the proposed rule and urge the current administration to partner with Congress to increase investments in CCDF in support of children, families, providers, and the economy.**

Thank you for your consideration of these comments for the proposed rulemaking. If you have any questions, please contact Christina Walker, Senior Director of Policy, Healthier Colorado at [cwalker@healthiercolorado.org](mailto:cwalker@healthiercolorado.org).

Sincerely,

A Caregiver Network  
Alma Wiley, Family Child Care Home Provider  
Bell Policy Center  
Charlotte Branley, Advocate  
Colorado Alliance of Boys & Girls Clubs  
Colorado Association for the Education of Young Children (COAEYC)  
Colorado Association of Family Child Care  
Colorado PTA

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<sup>35</sup> University of Denver Colorado Evaluation & Action Lab, “Stimulus Evidence Building Brief: CCCAP Increased Absence Payments for Preschoolers, CCCAP Enrollment-Based Payments for Infants/Toddlers, and CCCAP Reimbursement Rate Increase for Child Care Providers,” September 2023, <https://cdec.colorado.gov/cccap-rate-and-paid-absences-increase>.

Colorado Statewide Parent Coalition  
Diane Price, Advocate  
the Early Childhood Partnership of Adams County  
Early Connections Learning Centers  
Early Milestones  
Finders Keepers Family Child Care Home and Preschool  
Foundations Family Childcare  
Gary Advocacy  
Healthier Colorado  
Healthy Child Care Colorado  
Illuminate Colorado  
Liz Denson, Mom of a 4-year old  
Lorrie Odom, Advocate  
Mile High Early Learning  
Miss Carrie's Child Care  
New Horizon Academy  
Northern Colorado Kids Thrive  
Pikes Peak Region Family Child Care Association  
Rocky Mountain Early Childhood Council  
Small Business Majority  
Spring Institute For Intercultural Learning  
The Kempe Foundation