

February 4, 2026

Submitted via www.regulations.gov

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

RE: Docket number 2025-24272 / RIN number 0970-AD20

Dear Secretary Kennedy,

I am writing on behalf of the Child Care for Every Family Network in response to the Department of Health and Human Services' (HHS) Notice of Proposed Rulemaking (NPRM) to express our strong opposition to the changes rolling back the 2024 rule, "*Improving Child Care Access, Affordability, and Stability in the Child Care and Development Fund.*" The Child Care for Every Family Network is a united group of organizations working to ensure our child care system delivers quality, affordable child care to every family and is supported by a well-paid workforce. Specifically, our Network directly supports state organizations across the country that organize parents and child care providers and advocate on their behalf with state and local governments. Every day, they work to address the very crisis that the 2024 rule aimed to assuage—specifically 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.¹ As such, we strongly urge HHS to withdraw the NPRM in its entirety and instead preserve the provisions in the 2024 final rule.

The provisions in the 2024 rule were developed on the basis of extensive data, research, and feedback from providers and providers. Yet HHS' NPRM fails to address any documented issues with the existing standards and fails to consider the significant costs and burdens it would have on children, families, providers, and broader communities – as well as the state administrators who have already implemented 2024 rule changes to pay providers more fairly. It's clear that this NPRM would (1) 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, and (2) make it harder to deliver stable and consistent payments for providers, particularly smaller providers (both center-based and home-based) who operate on small margins.

Greater Costs for Parents and Families

By repealing the provision in the 2024 final rule that caps copayments at 7 percent of income for all families, this NRPM would open the door to states increasing copayments and raising child care costs for low-income families. Research indicates that, for families with low incomes, the cost of child care is a barrier to access at any co-payment level.² Families with low incomes

¹ 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>.

² 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>.

spend an average of 35 percent of their income on child care costs, while families with higher incomes spend 7 percent of their income on average, according to data from the Survey of Income and Program Participation.

Moreover, these affordability parameters are already in place in 34 states and the District of Columbia and have engendered significant reliance interests by many families and providers who have enrolled in and structured their programs based on the existing cap on family co-payments. Maintaining a clear affordability threshold therefore builds on existing state practice and supports both parents and providers.

Challenges in Delivering Stable and Consistent Payments to Providers

The NPRM also repeals the 2024 rule requirement to pay child care providers prospectively. This payment practice 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. Indeed, 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 families to pay prospectively.³ In contrast, many states 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.

Further exacerbating providers' ability to receive stable and consistent payments is the NPRM's repeal of the requirement to pay child care providers based on a child's enrollment rather than attendance. 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 vacations. 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 also benefits families who receive subsidy dollars by maximizing choice and minimizing risk of financial uncertainty.

Conclusion

A robust, well-resourced, and stable child care and early learning system helps children and families thrive. The 2024 rule helped get us closer to this goal by promoting fair payment practices for providers and limiting the cost for families with low incomes. Undermining those provisions will have the reverse effect – weakening the system, making it harder for providers to stay afloat, and making it harder for families already struggling to get by.

³ 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.

As such, we strongly urge HHS to withdraw the NPRM in its entirety and preserve the 2024 provisions. At the very minimum, it is imperative that HHS preserve state flexibility to use enrollment-based, prospective payment if they choose. The Administration's recent discourse that enrollment-based payments is a "loophole" for improper billing is an unwarranted attack that threatens states' progress in this area. Finally, we feel compelled to make clear that states maintaining policies aligned with the 2024 Final Rule must not face punitive measures or disincentives.