



By email: irrc@irrc.state.pa.us

April 10, 2023

Independent Regulatory Review Commission
333 Market St, 14th Floor
Harrisburg, PA 17101

**Re: Regulation #14-545: Subsidized Child
Care Eligibility (IRRC #3275)**

Dear IRRC:

Community Legal Services, on behalf of the many low-income, working families we represent, submits these comments on the Pennsylvania Department of Human Services (DHS)'s final form regulations governing the Department's Child Care Works (CCW) subsidized child care program. The Child Care Works program provides critical child care assistance to low-income, working families in Pennsylvania.

The final form rulemaking rescinds the entire chapter of Child Care Works regulations at 55 Pa Code Chapter 3041 and replaces it with Chapter 3042.

While the primary purpose of the proposed rewrite of CCW regulations is to implement new federal requirements set forth in the federal Child Care and Development Block Grant Act of 2014 (CCDBG) (42 U.S.C.A. §§ 9857—9858r, as reauthorized by Pub.L. No. 113-1), DHS has also taken the opportunity to further improve the program by proposing changes to regulations not affected by the 2014 CCDBG reauthorization.

CLS strongly supported the majority of the regulatory changes proposed by DHS in Chapter 3042, the Department's November 14, 2020 proposed rulemaking. We believe that these changes will further the central goals of Congress in its reauthorization of the CCDBG Act in 2014, which were to: (i) ensure continuity of care for children in quality early learning child care settings; and (ii) enable working parents to achieve and maintain financial stability, knowing that their children are being cared for in a stable, nurturing environment.

In our December 14, 2020 comments on the proposed regulations that we submitted along with the Community Justice Project, we suggested a number of changes and clarifications intended to further strengthen the regulatory package. DHS accepted many of our recommendations in the final form regulations. We were particularly pleased to see that, in



response to our comments, DHS deleted a provision at 55 Pa. Code § 3042.14(d) that allowed child care providers to charge low-income families, on top of their co-payment, the difference between the Department’s payment rate and the provider’s published, private pay rate.

We argued that this provision effectively imposed a “super” copay on parents. The whole purpose of a co-pay scale based upon family size and income is to ensure that child care costs for these families are affordable. The “super” co-pay permitted by this regulation flew in the face of DHS’s equitable and carefully constructed co-pay scale.

It also undermined parent choice of providers, arguably in violation of the federal Child Care and Development Block Grant Act, establishing the right of parents to entrust the care of their children to the child care provider of their choice.¹ Because of their limited means, parents who would opt to select a particular provider based upon location, quality of care, and reputation, among other factors, were effectively precluded from doing so, when that provider charged a “super” co-pay, pursuant to this regulatory provision.

DHS agreed with our reasoning and, citing additional reasons of its own, ended this “balance billing” provision by deleting subsection (d) of Section 3042.24.

While there are a number of areas where DHS did not accept our recommendations, we feel that on balance, the final form Child Care Works regulations will substantially improve Pennsylvania’s subsidized child care program to the benefit of low-income working. In discussion following the submission of our comments on the proposed regulations, the Office of Early Learning and Child Development (OCDEL) pledged to look at areas of concern to us, such as modernizing eligibility verification policies and practices, with a view toward making further improvements to the program in the coming years.

In summary, we strongly support DHS’s final form Child Care Works regulations and urge the Independent Regulatory Review Commission (IRRC) to approve this package.

Sincerely,

A handwritten signature in cursive script that reads "Louise Hayes".

LOUISE HAYES
Supervising Attorney
(215) 227-4734
LHayes@clsphila.org

¹ See, 45 CFR §§ 98.30(f)(2); 98.15(a)(5); 98.1(a)(2).