



May 1, 2023

Re: Pennsylvania Department of Human Services' final form regulations [14-545, Subsidized Child Care Eligibility](#)
Submitted Electronically To: irrc@irrc.state.pa.us

To Whom It May Concern,

The Early Care and Education Consortium (ECEC) writes to oppose the removal of § 3042.14(d) from Chapter 304, Subsidized Child Care Eligibility, as proposed by the Department of Human Services' final-form rulemaking, [14-545, Subsidized Child Care Eligibility](#). This policy results in the inability for child care providers to collect the difference between the state's reimbursement rates under the Child Care Works (CCW) program and their published rates, which has severe negative impacts on the availability of high-quality care, access to choices for families, expanded provider participation in CCW, and the broader child care market.

ECEC is a non-profit alliance of the leading multi-state, multi-site child care providers, key state child care associations, and premier educational service providers. Together, we represent over 7,000 programs serving nearly 1 million children across the country. In Pennsylvania, ECEC members operate almost 300 locations that have the capacity to serve nearly 34,000 children each day, while employing approximately 7,100 educators and staff.

ECEC's mission is to advance policies that strengthen the child care system and expand access to high-quality early care and education programs for all families, particularly those from underserved communities. We advocate for strong federal and state policies that bring quality to scale, expand access to more children, support the early care and education workforce, and lower costs for families.

To that end, ECEC appreciates the Commonwealth's work to improve access, stability, and affordability of child care for families participating in the CCW program. We support efforts to align CCW regulations with the federal Child Care and Development Block Grant (CCDBG), and agree most changes will support families' access to CCW, simultaneously supporting parental employment and children's healthy development.

However, we strongly oppose the removal of § 3042.14(d) in the final-form regulation, which will prevent child care providers from recouping the difference between the Department's CCW reimbursement rates and the rates providers charge non-CCW families. Currently, Pennsylvania reimburses child care providers for serving CCW families at the 60th percentile of the 2022 Market Rate Survey.¹ This is lower than the federally-recommended benchmark of the 75th percentile, a level that increases the likelihood that subsidy-eligible families will have access to child care services comparable with their peers. Low reimbursement rates mean a large number of providers are not reimbursed anywhere close to the true cost of providing care. As such,

¹ Pennsylvania Key Announcement ELRC 23-01. Available at: <https://www.pakevs.org/elrc-23-01/>

providers must collect the difference between CCW rates and published rates to stay financially stable, or face the difficult decision of not accepting CCW families.

According to the Department's own estimates, the removal of this provision has an estimated fiscal impact to providers of approximately *\$16.5 million annually* in the form of reduced income. Because the Commonwealth has not identified a source of funding to cover this financial loss, this policy is likely to contribute to far fewer child care providers accepting CCW families. As a result, families participating in CCW will have limited options, particularly higher-quality options, for infants and toddlers, and in areas where care is more costly. This policy could undermine shared priorities of ensuring equal access to child care for families and promoting parent choice in selecting a child care provider that best meets their unique needs.

Three-quarters of states (38) recognize this reality, and allow providers to collect the difference between state reimbursement rates and the tuition charged to private-pay families.² Many states cite reasons already mentioned, for example: "Not allowing providers to charge the difference could have the unintended consequence of reducing the pool of providers willing to care for children receiving subsidies" (Minnesota); "Limiting the amount that providers can charge would reduce the number of quality child care options for families eligible for [subsidy], due to child care providers declining to accept payment that is below the cost of care" (Maryland).^{3,4}

ECEC fully supports critical efforts in the Commonwealth to reduce families' child care expenses, including by limiting co-payments for CCW families, a policy codified in the final-form regulation. However, child care providers should not be required to absorb the cost of co-pay reductions. We are pleased that American Rescue Plan Act (ARPA) funds will cover this policy through September of 2024, but are concerned that Pennsylvania must identify an estimated \$44.3 million annually to cover the cost beyond that date.

Together, these two policies could severely impact the ability of providers to participate in the CCW program, resulting in fewer options for eligible families and/or more expensive care for non-CCW families who will bear the burdens of the gap between rates. A better solution to reduce child care expenses for families is to close the gap between CCW reimbursement rates and the full cost of high-quality care, while not requiring providers to shoulder these additional costs.

Specifically, increasing CCW rates to at least the federally-recommended benchmark of the 75th percentile encourages more providers to participate in the subsidy system; increases the likelihood that eligible children will have access to child care services comparable to their peers; improves family choice across a wider range of providers; allows providers to increase teacher and staff wages and improve benefits packages; and helps providers improve quality of services. Though the Commonwealth has made strides in recent years, continuing to improve

² Based on a preliminary review of 2022-2024 Child Care and Development Fund State Plans, Question 4.5.2, conducted by the US Department of Health and Human Services, available at: <https://www.acf.hhs.gov/sites/default/files/documents/occ/4.5.2-FFY2022.pdf>. The State plans not included in the preliminary analysis conducted by HHS are available at: <https://www.acf.hhs.gov/occ/form/approved-ccdf-plans-fy-2022-2024>.

³ Minnesota CCDF State Plan, available at: https://mn.gov/dhs/assets/22-24_Plan_approved_version_tm1053-515527.pdf

⁴ Maryland CCDF State Plan, available at: https://earlychildhood.marylandpublicschools.org/system/files/filedepot/12/fffy2022_2024_ccdf_plan_approved.pdf

reimbursement rates is a much needed investment that will yield positive impacts for child care providers, families, and the broader state economy. Importantly, it will also mitigate the need for providers to charge families additional fees, as the Commonwealth will be reimbursing providers directly for a greater proportion of the cost of providing high-quality care.

The proposed removal of § 3042.14(d) will have the opposite effect the Department intends and is not the solution for lowering costs for families.

We implore you to disapprove the final regulation. Eliminating § 3042.14(d) moves Pennsylvania *farther away* from meeting the federal CCDBG priorities of ensuring equal access to child care for families and promoting parent choice in selecting a child care provider that best meets their unique needs. To better meet these goals while also reducing child care costs, the Commonwealth should maintain the existing policy under § 3042.14(d) and consider increasing CCW reimbursement rates.

Thank you for the opportunity to weigh in on this critical matter. We would be happy to answer any questions you might have and can be reached at ECEC@ECECconsortium.org.

Sincerely,

Early Care and Education Consortium