



Independent Regulatory Review Commission (IRRC)
Public Comment of the Early Care and Education Consortium (ECEC) Regarding Regulation #14-545:
Subsidized Child Care Eligibility
May 18, 2023

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 will prevent child care providers from collecting the difference between the state's reimbursement rates under the Child Care Works (CCW) program and their published rates, which will have 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 multi-state, multi-site child care providers, state child care associations, and premier education 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 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, while 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 The market rate survey reflects the rates charged by providers in the private market, and it is worth noting that these rates often do not reflect the *true cost* of running high-quality programs, as families can only afford to pay so much. In addition, the rate at which Pennsylvania reimburses providers 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 significant number of providers are not reimbursed for the true cost of providing care. As such, 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 § 3042.14(d) 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 more 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

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

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 Further, at a time when the early care and education field is facing a severe workforce crisis,³ now is not the time to change a rule that is aiding providers in keeping teachers employed and classrooms open.

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 would encourage more providers to participate in the subsidy system; increase the likelihood that eligible children will have access to child care services comparable to their peers; improve family choice across a wider range of providers; allow providers to increase teacher and staff wages and improve benefits packages; and help providers improve quality of services.

Though the Commonwealth has made strides in recent years, continuing to improve 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 *further 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@ECEConsortium.org.

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 Since losing one third of its workforce at the outset of the pandemic, the early care and education industry has seen a jobs recovery that has been slow and incomplete compared to that of other industries. As of January 2023, there were still approximately 58,000 fewer child care workers in the United States than in February 2020. <https://www.wsj.com/articles/child-care-hasnt-recovered-from-covid-keeping-many-parents-at-home-11675654065>. Further, in a recent survey of over 1,100 Pennsylvania child care, Pre-K Counts and Head Start State Supplemental Programs, 85 percent of child care respondents reported staffing shortages. A press release regarding the survey is available at: <https://www.uwp.org/wp-content/uploads/PreK-for-PA-and-Stay-Strong-for-PA-Press-Release-March-1st-2023.pdf>.