



COMMONWEALTH of VIRGINIA
DEPARTMENT OF SOCIAL SERVICES
Office of the Commissioner

Margaret Ross Schultze
COMMISSIONER

December 1, 2015

MEMORANDUM

TO: Honorable Terence R. McAuliffe
Governor of Virginia

The Honorable Chris Jones, Chairman
House Appropriations Committee

The Honorable Water Stosch, Co-Chairman
Senate Finance Committee

The Honorable Charles Colgan, Co-Chairman
Senate Finance Committee

FROM: Margaret Ross Schultze

A handwritten signature in black ink, appearing to read "Margaret Ross Schultze".

SUBJECT: Requirements Established by the Child Care and Development Block Grant Act of 2014

I am pleased to submit the Department of Social Services' report on requirements of the Child Care and Development Block Grant Act of 2014. The report was prepared pursuant to Chapters 758 and 770 of the 2015 Acts of Assembly (House Bill 1570 and Senate Bill 1168). If you have questions or need additional information concerning this report, please contact me.

MRS:kc

Attachment

A Report of the
Commonwealth of Virginia
Department of Social Services

**Report on Requirements
Established by the Child Care and Development
Block Grant Act of 2014**

to the
Chairmen of the Senate Committee on Rehabilitation and Social Services; and
the House Committee on Health, Welfare and Institutions.

December 2015

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Report Mandate

Item 2 of the **2015 Child Care Omnibus Bill**, which passed the General Assembly as SB 1168 and HB 1570, provides that the Department make a report to the Chairmen of the Senate Committee on Rehabilitation and Social Services and the House Committee on Health, Welfare and Institutions concerning the requirements of the Child Care and Development Block Grant Act of 2014.

That the Department of Social Services shall report on the requirements established by the Child Care and Development Block Grant to the Chairmen of the Senate Committee on Rehabilitation and Social Services and the House Committee on Health, Welfare and Institutions by December 1, 2015.

Background

The Child Care and Development Block Grant assists low-income families, and families receiving and transitioning from public assistance, with obtaining needed child care. The program, created in 1990, was reauthorized under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193). The federal Child Care and Development Block Grant Act of 2014 (the Act) was signed into law on November 19, 2014, reauthorizing the program through the year 2020. Item 2 of the 2015 Child Care Omnibus Bill, which passed the Virginia General Assembly as SB 1168 and HB 1570, provides that the Department make a report to the Chairmen of the Senate Committee on Rehabilitation and Social Services and the House Committee on Health, Welfare and Institutions concerning the requirements of the Child Care and Development Block Grant Act of 2014.

Requirements of the Child Care and Development Block Grant Act of 2014

The federal Child Care and Development Block Grant Act of 2014 (the Act) was signed into law on November 19, 2014. As the first reauthorization of the Child Care and Development Fund (CCDF) in 18 years, it makes significant changes to the purposes and goals of the program. Originally a work support program, the Act broadens the purpose of the CCDF to emphasize child development and to increase the number of children receiving high quality care. Other significant changes include:

1. Creating a 12-month eligibility and redetermination period for child care subsidy recipients;
2. Mandating coverage during periods of job search;
3. Mandating a graduated phase out of assistance to provide more stability for children and families;
4. Strengthening the overall requirements for child care providers;
5. Mandating training and inspections of providers of eligible children;
6. Strengthening background check requirements; and
7. Mandating increases in expenditures to improve the quality of child care.

This report summarizes the law, with the requirements divided into six sections including family friendly eligibility practices; provider requirements; consumer and provider education; reauthorization funding, spending and financial management; penalties and other requirements.

Family Friendly Eligibility Practices (Section(s): 658A.(b) & 658E.(c)(2))

The Act includes policy changes designed to reduce the burden on families trying to obtain and maintain child care subsidy assistance. The reauthorization minimizes required reporting for families and encourages states to reduce the complexity of the eligibility redetermination process. It added language to the existing purposes to promote increased parental involvement and to promote higher quality care throughout the state. It also added two new purposes related to child development, expanding the scope of the program. According to the *Senate Committee on Health, Education, Labor and Pensions Report to Accompany S. 1086*, new goals were added to reinforce parental choice in determining the best setting for children while also placing a focus on the quality of care. The new goals are:

1. To improve child care and development of participating children, and
2. To increase the number and percentage of low-income children in high-quality child care settings.

12 Month Eligibility and Redetermination (Section(s): 658E.(c)(2)(N)(i-ii))

The Act establishes a 12-month eligibility and redetermination period for families who receive services. Each child who receives assistance must be considered to meet all eligibility

requirements for assistance, and must receive assistance for not less than 12 months before the state redetermines the eligibility of the family, unless the family income exceeds the federal threshold of 85% of State Median Income (SMI), or the family experiences a non-temporary change in participation in work, training, or education activities.

Job Search

(Section(s): 658E.(c)(2)(N)(iii))

Continuous eligibility requires that assistance not be terminated prior to the end of the 12-month period if a family experiences a temporary job loss or temporary change in participation in a training or education activity. The Act gives the states the option to terminate assistance prior to the end of the 12-month period if a parent has a non-temporary change in their employment or their education or training activity, after the family is provided with at least a three-month period to begin a new education or training program or to find new employment. *The Senate Committee on Health, Education, Labor and Pensions Report to Accompany S. 1086* clarified that this option, to terminate assistance, is only to be used if there is “demonstrated evidence of prolonged cessation in work, education, or training activities... the committee also strongly [discouraged] States from exercising this option if the intended effect is to abruptly discontinue assistance if there are brief periods when a parent is not engaged in work, education, or training activities.”

Income Eligibility and Graduated Phase Out of Care

(Section(s): 658E.(c)(2)(N) & 658P.(4)(B))

The Act adds a new eligibility requirement relating to resources, and it addresses stability and continuity of care.

While maintaining the maximum federal income eligibility limit of 85% of SMI, a cap of \$1,000,000 in assets is added. Families will be required to certify that their assets do not exceed the federal limit. Although a limit is established, the law does not define assets.

Three new provisions to support families were added to the law to support stability and continuity of care by addressing increases in family earnings. The first provision requires that states allow families to continue to receive services through the entire 12-month eligibility period, unless the family income exceeds the federal maximum of 85% of SMI, or the family experiences a non-temporary change in participation in work, training, or education activities. The second requires that the state design the eligibility determination and redetermination processes to include considerations for fluctuations in parent’s earnings. The third provision requires that states allow for a gradual phase out of assistance. This means that if at redetermination the family has an income which exceeds the state’s income eligibility limit for initial eligibility, but is lower than the federal threshold of 85% of SMI, the state must have policies in place to continue assistance for a graduated phase out period. The state may choose to implement this requirement by setting different entry and exit income eligibility levels. In choosing this option a family’s income would be measured at initial eligibility against an entry income eligibility level, and at redetermination income would be measured against a different exit income eligibility level, thus encouraging wage growth and a transition out of the Subsidy Program.

Priority for Services

(Section(s): 658E.(c)(2)(Q) & 658E.(c)(2)(I)(i)(I))

States must prioritize care for low-income families and increase access to programs providing high-quality child care and development services for children in areas that have significant concentrations of poverty and unemployment, where such programs do not exist. The reauthorization also requires states to recognize the distinct challenges faced by families experiencing homelessness. The Act mandates that states have procedures in place for the expedited enrollment of children experiencing homelessness pending the compilation of all necessary immunization and health and safety documentation.

Meeting the Needs of Certain Populations

(Section(s): 658E.(c)(2)(M))

States must now focus on developing strategies to increase the supply and quality of care across the state and for specific target populations. The law suggests multiple strategies to increase the supply and quality of care for infants and toddlers, children in underserved areas, children with disabilities and children receiving care during non-traditional hours. These suggested strategies include alternative reimbursement rates to child care providers and the provision of direct contracts or grants to community-based organizations.

Prevention of Disruption of Work

(Section(s): 658E.(c)(2)(N)(ii))

The Act added a requirement that states have procedures and policies in place to ensure that parents, especially parents receiving TANF assistance, are not required to unduly disrupt their employment, education or job training activities in order to comply with the state's requirements for eligibility redetermination.

Provider Requirements

The Act also focuses on the health and safety of children in subsidized care and increasing the quality of child care statewide, setting out numerous provisions that impact child care providers. Some of the requirements outlined in the law apply to only providers participating in the subsidy program, while other requirements apply to all providers.

Statewide Applicability

(Section(s): 658E.(c)(2)(F)(i-ii) & 658E.(c)(2)(L))

The Act mandates several measures to increase the safety of all children receiving child care services in the Commonwealth. The first mandate is that all providers in the state receive fingerprint background checks. The second mandate is that states must have licensing requirements in effect that are "applicable to child care services provided within the state." The law also mandates that if there are any providers within the state that are exempt from licensing requirements, the state must explain why these exemptions do not endanger the health and safety of children in care. Finally the law mandates that states must have in place procedures to ensure

that child care providers comply with child abuse reporting requirements outlined in the Child Abuse Prevention and Treatment Act (42 USC 5106a(b)(2)(B)(i)).

Background Checks

(Section(s): 658H.)

States are required to implement a comprehensive set of criminal background check requirements by no later than September 30, 2017. This provision is not limited to CCDF providers. In order to receive CCDF block grant funds, the states must establish comprehensive background check requirements, including an FBI fingerprint check, for all child care providers who receive subsidy assistance and all providers licensed, regulated or registered under state law. Providers of relative child care may be exempted, at the option of the states, from the background check requirements. The requirements established by the states must be applicable to all child care staff members, including any individual employed by a child care provider for compensation; or whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider. The background check must include the following requirements:

1. A search of the State criminal and sex offender registry or repository in the State where the child care staff member resides, and each State where such staff member resided during the preceding 5 years;
2. A search of State-based child abuse and neglect registries and databases in the State where the child care staff member resides, and each State where such staff member resided during the preceding 5 years;
3. A search of the National Crime Information Center;
4. A Federal Bureau of Investigation fingerprint check using the Integrated Automated Fingerprint Identification System; and
5. A search of the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.).

Child care staff members must undergo these comprehensive background check requirements at least every five years. Should a staff member leave one child care provider to begin work for another the Act mandates that the states accept the previous background check, as long as the staff member has not been separated from employment for more than 180 days. After the request for a background check has been initiated by a child care provider, the Act mandates that the request be carried out and the results delivered as expeditiously as possible, not to exceed 45 days from the date on which the request was submitted. The Act also mandates that the states have an appeal process in place so that individuals who are barred based on the findings may challenge the results of the investigation.

Provider Monitoring

(Section(s): 658E.(c)(2)(K))

States must have in place policies and procedures to regulate and monitor all providers who receive child care subsidy funding, including license-exempt providers, by no later than November 19, 2016. The reauthorization allows the state to exempt only relative providers from

this requirement; all other providers must be monitored regularly. For licensed child care, the law mandates that providers be inspected at least once prior to receiving their initial license. It also mandates that these providers receive at least one unannounced inspection annually. License-exempt providers must receive at least one inspection annually for compliance with health, safety and fire standards, if they are to receive subsidy funding.

The Act also requires that all “licensing inspectors in the state are qualified to inspect those child care providers and facilities, and have received training in related health and safety requirements, and are trained in all aspects of the state’s licensure requirements.” The reauthorization does not mandate specific requirements for inspectors, only that the state have these requirements in place. States must also ensure that the ratio of licensing inspectors to providers is sufficient to enable the state to conduct all necessary inspections.

Standards for Group Size and Child to Staff Ratios

(Section(s): 658E.(c)(2)(H))

The Act mandates that states establish group size limits and appropriate child to staff ratios based on the age of the children. The reauthorization leaves the decision about ratios to the various states and explicitly prohibits the Secretary of Health and Human Services (HHS) from requiring states to maintain specific group size limits.

Health and Safety Requirements

(Section(s): 658E.(c)(2)(I))

Under the Act, states must establish health and safety requirements applicable to Child Care Subsidy Program providers in 10 areas:

1. The prevention and control of infectious diseases, including immunizations;
2. The prevention of sudden infant death syndrome and the use of safe sleep practices;
3. The administration of medication;
4. The prevention of and responses to emergencies due to food and allergic reactions;
5. Building and physical premises safety;
6. Prevention of shaken baby syndrome and abusive head trauma;
7. Emergency preparedness and emergency response planning;
8. The handling and storage of hazardous materials and the appropriate disposal of bio-contaminants;
9. Appropriate precautions in transporting children, if appropriate; and
10. First Aid and CPR.

States must certify that providers receiving subsidy funds complete minimum preservice or orientation health and safety training, and participate in ongoing training. These trainings should cover the ten topics listed above. Training is not limited to these ten areas and states may expand on the requirements as necessary to meet the needs of providers and children in the state.

Training and Professional Development
(Section(s): 658E.(c)(2)(G))

The law mandates that states must have specific training and professional development requirements applicable to providers receiving CCDF funds that promote children's social, emotional, physical and cognitive development and improve the knowledge and skills of the child care workforce. Training and professional development shall:

1. Be conducted on an ongoing basis;
2. Provide for a progression of professional development;
3. Reflect current research and best practices relating to the skill set necessary for the child care workforce;
4. Improve the quality of and stability within the child care workforce;
5. Be developed in consultation with the State Advisory Council on Early Childhood Education and Care;
6. Incorporate the state's early learning and development guidelines, health and safety standards and social emotional behavior intervention models; and
7. To the extent practicable, prepare staff to work with different age groups, English-learners, children with disabilities and Native Americans.

States are responsible for determining the number of hours of training required annually for providers. In addition to these requirements, the states must also develop and implement strategies to strengthen provider business practices to expand the supply and improve the quality of child care services.

Provider Payment Practices
(Section(s): 658E.(c)(2)(S) & 658E.(c)(4))

States are required to certify that payment practices for providers reflect generally accepted practices for providers that serve children who do not receive CCDF assistance. To achieve this goal the law requires the states to implement policies which support the fixed cost of providing child care, by delinking provider payments from a child's occasional absence due to holidays or unforeseen circumstances.

To set payment rates, states are still required to evaluate the child care market not earlier than two years before each state plan submission. States are to use a statistically valid and reliable survey of the market rates for child care services in the state, or an alternative methodology such as a cost estimation model.

Consumer and Provider Education
(Section(s): 658E.(c)(2)(E))

Reauthorization strengthens the requirement that states provide consumer education services to families and providers. This requirement mandates the public dissemination of information about the availability and quality of child care as well other assistance programs within the state. The states are also mandated to share information about developmental screenings, when

appropriate, for children receiving services. The information to be provided includes:

1. The availability of child care services throughout the state and, other services and programs provided for which the family may be eligible, including the availability of financial assistance to obtain child care services;
2. Information about the quality of providers, provided through a Quality Rating and Improvement System;
3. Information, made available through a state website, describing the state process for licensing child care providers, the state processes for conducting background checks, and monitoring and inspecting child care providers, and barrier crimes that prohibit individuals from serving as child care providers;
4. Other programs for which families that receive child care subsidy services may be eligible, including programs carried out under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.);
5. Research and best practices concerning children's development, including social and emotional development, early childhood development, meaningful parent and family engagement, and physical health and development (particularly healthy eating and physical activity); and
6. State policies regarding the social-emotional/behavioral health of young children, which may include positive behavioral intervention and support models, and policies on expulsion of preschool-aged children, in early childhood programs which receive subsidy payments.

Consumer Education Website

(Section(s): 658E.(c)(2)(D) and 658E.(c)(2)(E)(i)(III))

States are required to develop a user-friendly consumer education website. The website must include provider specific information, as well as aggregate information on child safety and information about the state's processes and procedures concerning child care providers. No later than one year after monitoring and inspection procedures are in place for providers, states must post the monitoring and inspection reports of providers participating in the Subsidy Program.

The consumer education website must include the following information:

1. Results of monitoring and inspection reports, including those due to major substantiated complaints;
2. Last date of inspection;
3. Information on corrective actions taken (if applicable);
4. Aggregate information on the annual number of deaths, the annual number of serious injuries and the annual number of incidences of substantiated child abuse in child care settings;
5. The state process for licensing child care providers;
6. The state process for conducting background checks and the offenses that would keep a provider from being allowed to care for children; and
7. The state process for conducting monitoring and inspections of child care providers.

Reauthorization Funding, Spending Requirements and Financial Management
(Section(s): 658B. & 658E.(c)(4)(B)(iii)(III))

The Act challenges states to implement changes described in this report without any significant increase in federal funding. Congress will determine actual funding levels for each fiscal year. The Act requires states to set payment rates for subsidized child care services in accordance with the market rate survey, considering the cost of providing higher quality care than was provided prior to the enactment of the Child Care and Development Block Grant Act of 2014, and “without, to the extent practicable, reducing the number of families in the state receiving” child care subsidy, “relative to the number of families on the date of enactment of the Act.”

State Plan and Plan Period
(Section 658E.(b))

Prior to reauthorization, states were required to submit a plan every two years outlining how the state intended to spend its federal award. The reauthorization changed the plan period; states are now required to submit a new state plan every three years. The state plan will be used by the Administration for Children and Families in the Department of Health and Human Services, Office of Child Care, to determine compliance with the fiscal and programmatic requirements of the law.

Direct Services and Administrative Costs
(Section(s): 658E.(c)(3)(C-E))

The Act requires that at least 70 percent of funds be spent on direct services to eligible families and limits administrative costs to five percent. It does not define administrative costs, but it does specify that the costs of providing direct services are not to be included when calculating administrative costs.

Quality Set-Asides
(Section(s): 658G.)

The Act increases the amount reserved for activities to improve child care quality for all providers in the state. The quality set-aside of 4% remains valid through Federal Fiscal Year (FFY) 2015. Between FFY 2016 and FFY 2020, required expenditures gradually increase. In FFY 2016 and FFY 2017, not less than 7% of funds are to be expended for activities related to the quality of child care services. This increases to not less than 8% in FFY 2018 and FFY 2019, and to not less than 9% in FFY 2020. Approved quality activities specified in the Act include:

1. Supporting training and professional development of the child care workforce;
2. Improving upon the development or implementation of the state’s early learning and development guidelines;
3. Developing, implementing, or enhancing a tiered quality rating system;
4. Improving the supply and quality of infant and toddler care programs;
5. Establishing or expanding a statewide system of child care resource and referral services;
6. Facilitating compliance with state requirements for inspection, monitoring, training,

- health and safety, and licensing;
7. Evaluating quality and effectiveness of child care programs;
 8. Supporting providers seeking national accreditation;
 9. Supporting efforts to develop high-quality health, mental health, nutrition, physical activity, and physical development program standards; and
 10. Carrying out other activities determined by the state to improve the quality of care for which measurement of outcomes related to provider preparedness, child safety, child well-being, or kindergarten entry is possible.

In addition to funds set aside for quality, the Act adds a new mandate beginning in FFY 2017 which will require states to spend 3% of funds for activities related specifically to the quality of care for infants and toddlers. The infant and toddler quality set-aside, like the generic quality set-aside, must be used for allowable activities, including:

1. Establishing or expanding high-quality community or neighborhood-based family and child development centers and/or neighborhood-based family child care networks to support the provision of high-quality care;
2. Training and professional development for infant-toddler caregivers;
3. Coaching and technical assistance from statewide networks of qualified infant-toddler specialists;
4. Coordination with early intervention specialists;
5. Developing infant-toddler components within the state's quality rating system, licensing regulations, or early learning and development guidelines;
6. Consumer education on high-quality infant-toddler care; and
7. Other activities that will improve the quality of infant-toddler care.

The infant/toddler quality set-aside is an amount separate from the quality set-aside; the total amount set aside is the sum of the two-categories, no less than 12% by FFY 2020.

Reports

(Section(s): 658K.)

States are still required to collect and report to the federal Secretary of HHS, certain family-specific information including family income; county of residence; gender, race and age of children receiving assistance; and other variables. Information currently required has been expanded to include whether or not the child receiving assistance is experiencing homelessness. Reauthorization continues the requirement that states submit an annual report to the Secretary of HHS. New information required in the annual report includes the number of child fatalities occurring among children while in the care and facility of child care providers receiving subsidy assistance, listed by type of child care provider and indicating whether the providers are licensed or license-exempt.

Penalties

(Section(s): 658E.(c)(3)(B)(ii)(II) & 658H.(j)(3) & 658I.(b)(2)(A)(ii))

The reauthorization includes two penalties for non-compliance with major provisions of the Act. In the event that a state fails to give priority for services, to children of families with very low income, or to families with children with special needs, the Secretary of HHS may withhold up to five percent of the funds that would otherwise be allocated to the state. The law also mandates an additional five percent penalty if a state fails to comply with the background checks requirements of the reauthorization. Reauthorization also provides that the Secretary of HHS may require the state to reimburse the federal government for any funds that were improperly spent on activities prohibited by the Act.

The Act takes into account the fact that some states will have to make changes to state laws and regulations governing the CCDF. The reauthorization language allows HHS to waive provisions or penalties in the statute for up to three years. Further, the HHS Administration for Children and Families issued program instructions on January 9, 2015, stating:

“If a state or territory provides justification for why it cannot yet certify compliance with one or more of the new requirements in its FY 2016-2018 CCDF Plan, ACF may allow the Lead Agency to submit a state-specific timeline for achieving compliance with such provision(s)... We expect the need for additional time would be limited to provisions that require significant policy revisions or implementation efforts by the Lead Agency and that the timeline for implementation would not exceed a 1-year period.”

Other Requirements

Disaster Preparedness

(Section(s): 658E.(c)(2)(U)(iii)(I-III))

Reauthorization requires that states develop and implement a statewide child care disaster plan. The goal of this plan is to resume child care services as quickly as possible in the event of a man-made or natural disaster. The statewide disaster plan must include:

1. Guidelines for continuing CCDF assistance and child care services after a disaster;
2. Requirements that child care providers have in place procedures for evacuation, relocation, sheltering-in-place, and lock-downs;
3. Requirements that child care providers have in place procedures for communication and reunification with families, and continuity of operations;
4. Requirements that child care providers have in place procedures for the accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions; and
5. Requirements that child care providers have in place procedures for staff and volunteer emergency preparedness training and practice drills.

The law also mandates that states design training to assist providers with emergency preparedness and response planning.

Requirements of the Federal Government

(Section(s): 658L. & Notes Sec. 12 – Sec. 13)

The reauthorization places several new mandates on the federal government to be carried out by the Secretary of HHS. The federal government has been mandated to do the following:

1. To create a nationwide website where parents can search for providers by zip code along with a national hotline for reporting child abuse and neglect.
2. The Comptroller General of the United States must conduct a study concerning waiting lists for subsidy assistance nationwide.
3. The Secretary of HHS is required to, in conjunction with the Secretary of Education, report recommendations to Congress no later than November 2015 that outline the efficiencies that can be achieved through eliminating overlap in federal early learning and care programs.

Conclusion

Implementing the CCDBG reauthorization will require the Commonwealth to make significant changes to the Child Care Subsidy Program and to provider training and quality improvement activities. The new requirements of the reauthorization serve to increase the safety of children and the quality of care they receive; they also serve to promote positive child development by mandating provisions which serve to increase the continuity of care for enrolled children.

Appendix A: Sources of Information

Information in this report was obtained from multiple sources, including:

The Child Care and Development Block Grant Act of 2014 (PL 113-186). Available for viewing on the website of the Department of Health and Human Services, Administration for Children and Families, Office of Child Care website at:

https://www.acf.hhs.gov/sites/default/files/occ/child_care_and_development_block_grant_markup.pdf.

Implementing the Child Care and Development Block Grant Act Reauthorization: A Guide for States, 2015. National Women's Law Center and the Center for Law and Social Policy.

Available on the website of the National Women's Law Center for viewing at:
http://www.nwlc.org/sites/default/files/pdfs/final_nwlc_ccdbg_report2015.pdf.

The Senate Committee on Health, Education, Labor and Pensions Report to Accompany S. 1086. Available for viewing on the website of the United States Congress at:

<https://www.congress.gov/113/crpt/srpt138/CRPT-113srpt138.pdf>.

Program Instruction on CCDF Reauthorization Effective Dates, January 9, 2015. US Department of Health and Human Services, Administration for Children and Families, Office of Child Care. Available for viewing on the website of the Administration for Children and Families at: <http://www.acf.hhs.gov/programs/occ/resource/pi-2015-02>.