

Proposed Amendments to the CCDBG Regulations - 1997

--Major Regulatory Decisions --

4/2/97

Statutory Provision	Proposed Regulation	Flexibility
<p>Public Hearing - 658D(b)(1)(C)* - Hearing on the Plan must be held with "sufficient time and statewide distribution" to allow for public comment. (modifies public hearing provision)</p> <p>*References are to the Child Care and Development Block Grant Act, as amended, unless otherwise noted.</p>	<ul style="list-style-type: none"> ◆ requires at least 20 days' notice ◆ hearing to be held before the plan is submitted to ACF, but no more than 9 months in advance of the effective date of the plan ◆ State to describe distribution of the hearing notice in its Plan 	<ul style="list-style-type: none"> ◆ method of distribution ◆ population targeted for notice ◆ treatment of written comments
<p>Coordination - 658D(b)(1)(D) - Coordination with "other Federal, State and local child care and early childhood development programs." (continued provision)</p>	<ul style="list-style-type: none"> ◆ requires coordination with public health, employment services/workforce development, public education, and TANF agencies 	<ul style="list-style-type: none"> ◆ method of coordination ◆ only a limited set of the most critical agencies were required, although others could have been listed
<p>Health and Safety - 658E(c)(2)(F) - "Certify" provisions are in place which include prevention and control of infectious diseases (including immunization), building and physical premises safety, health & safety training. (continued provision amended by replacing "assure" with "certify")</p>	<ul style="list-style-type: none"> ◆ same as proposed in the joint child care regulatory amendments in 1994, requires States and Territories to establish immunization requirements that assure that children receiving CCDF services are immunized <p>Note: tribal standards to be separately established under new statutory requirement for the Secretary to develop minimum child care standards in consultation with the Tribes.</p>	<ul style="list-style-type: none"> ◆ does not impose Federal standards, rather relies on the decision of the State or Territory regarding what requirements to apply

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<p>Equal Access - 658E(c)(4)(A) -</p> <ul style="list-style-type: none"> ◆ "Certify," instead of "assure." (new) ◆ Payment rates that provide CCDF-eligible families with equal access to the same range of care as ineligible families. (continued) ◆ Plan to contain a "summary of the facts" relied on by the State in setting payment rates that ensure equal access. (new) ◆ Requirement for payment rates to vary by category of provider or age of child. (deleted) 	<ul style="list-style-type: none"> ◆ certification in Plan per statutory language ◆ summary of facts in Plan must address: <ul style="list-style-type: none"> --choice of full range of providers; --adequate payment rates based on a local market rate survey; conducted within two years prior to the effective date of the current State plan; --affordable copayments. ◆ prohibition against establishing different payment rates based on a family's status, e.g. TANF family ◆ preamble discussion highlights key components of "equal access" and suggests benchmarks 	<ul style="list-style-type: none"> ◆ does not dictate provisions of the market survey or require that rates be set at a certain level ◆ current provisions regarding sliding fees scales continue unchanged ◆ preamble recommends benchmarks, but State has flexibility overall to demonstrate "equal access"
<p>Consumer Education - 658E(c)(2)(D) - State must certify will collect and disseminate to parents of eligible children and the general public, consumer education information to promote informed child care choices. (revision)</p> <p>TANF Work Activities Exception - 407(c)(2), Social Security Act - State may not sanction a single custodial parent with a child < age 6 for failure to participate in TANF work activities if family has demonstrated inability (as determined by the State) to obtain needed child care. (new)</p>	<ul style="list-style-type: none"> ◆ certification in Plan per statutory language ◆ State CCDF Lead Agency to inform parents about the TANF rule, including the State's definitions or criteria used for making determinations re. whether care is unavailable, unsuitable, etc., and fact that the exception from work activities does not suspend the TANF "clock" ◆ State to include in the CCDF Plan definitions or criteria used for the exception to the penalties for not participating in TANF work activities 	<ul style="list-style-type: none"> ◆ does not regulate on how consumer education information is to be collected and disseminated, since other, new parts of the statute require States to: report on the manner in which consumer education is provided in their biannual report; and maintain a record of parental complaints that is made available to the public ◆ does not seek to require specific policies and procedures for making determinations regarding the TANF exception

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<p>"70% Rule" - 418(b)(2), Social Security Act - State shall ensure that not less than 70% of the total amount of funds received by the State in a fiscal year under [sec. 418] are used to provide child care assistance to families who are receiving assistance under a State program under [title IV-A], families who are attempting through work activities to transition off of such assistance program, and families who are at risk of becoming dependent on such assistance program. (new)</p> <p>658E(c)(2)(H) - State plan must demonstrate the manner in which the State will meet the specific child care needs of the above families. (new)</p>	<ul style="list-style-type: none"> ◆ regulations reflect the statute for the States ◆ Tribes exempted from the provision 	<ul style="list-style-type: none"> ◆ based on consultations, which strongly recommended that ACF not regulate, no further regulation is proposed ◆ decision based partly on argument that the at-risk population referenced in Sec. 418 of the Social Security Act and the low income population may be considered to be the same populations; although we left it to the discretion of the State to devise separate definitions
<p>Quality - 658G - State shall use not < 4% of CCDF funds for activities that are designed to provide comprehensive consumer education, activities that increase parental choice, and activities designed to improve the quality and availability of child care. (revision)</p>	<ul style="list-style-type: none"> ◆ reflects the statute; list of quality activities formerly contained in the statute is retained but regulation also states that "any other activities consistent with the intent [of the statute]" is allowable ◆ activities must be described in the State plan 	<ul style="list-style-type: none"> ◆ does not limit quality activities
<p>Administrative Costs - 658E(c)(3)(C) - limited to 5% of the aggregate amount of funds available to the State to carry out [the CCDF]. (new)</p> <p>Note: Conference report lists items Congress does not consider to be administrative costs.</p>	<ul style="list-style-type: none"> ◆ retains the former list of administrative costs in the regulations, except for those items Conference Agreement states are not administrative costs ◆ Tribes exempted from the 5% cap; 15% administrative cap is proposed for all Tribes 	<ul style="list-style-type: none"> ◆ responds to consultations and Conference Report

Statutory Provision

Proposed Regulation

Flexibility

Matching Funds and Maintenance of Effort (MOE) - 418(a)(2)(C), Social Security Act - States receive matching funds (at the FY 1995 FMAP rate) on the basis of the formula of the former At-Risk Child Care program. In order to receive matching funds, a State must maintain effort at its FY 94 or 95 level of expenditures for the now-repealed title IV-A child care programs as well as use its Mandatory Funds. (new)

- ◆ allowable expenditures, for both matching and MOE, are expenditures for activities that meet the goals and purposes of the CCDBG Act and that are described in the State Plan.
- ◆ as in the former At-Risk Child Care rules, public donated funds may be certified by the contributing agency as representing expenditures eligible for match
- ◆ instead of being transferred to the Lead Agency, private donated funds may be certified by BOTH the contributing and receiving agency as expenditures eligible for match
- ◆ public pre-Kindergarten (pre-K) expenditures may be counted for MOE, without limits, if State does not reduce its level of expenditures for full-day/full-year child care
- ◆ public pre-K expenditures may be counted for match, without any other limits, if the State describes in its plan how it will ensure that pre-K serves the needs of working parents

- ◆ gives States the flexibility they need to be able to secure their full allotment of matching funds
- ◆ does not limit MOE to only those activities that were allowable under the former IV-A child care programs, as we did in the Program Instruction of 10/30/96
- ◆ does not require private donated funds to be transferred to the Lead Agency, as we did in the Program Instruction of 10/30/96
- ◆ does not place burdensome restrictions on the use of pre-K as match; in the preamble, we provide some additional flexibility regarding the method of counting pre-K children served (in contrast to the method required under the previous per child count method required for the former IV-A child care programs)

Some changes

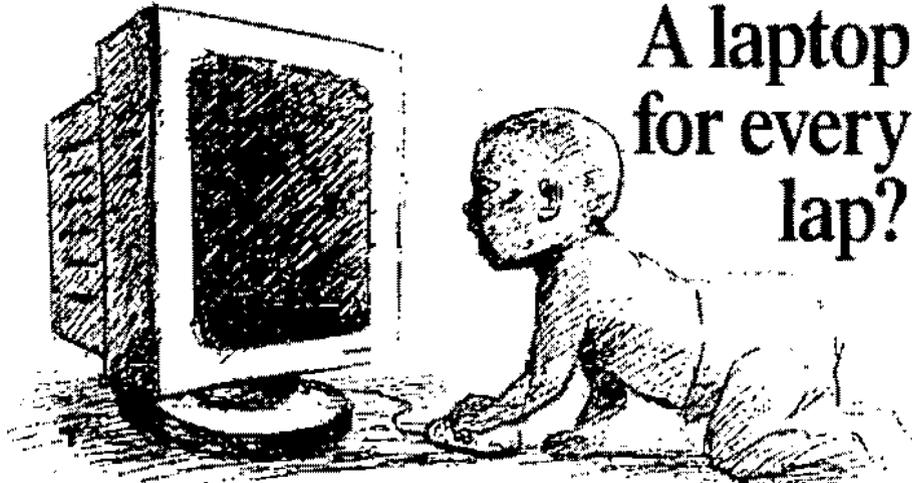
Statutory Provision	Proposed Regulation	Flexibility
<p>Penalties - 658I(b)(2)(A) - Secretary's options for penalties on States that do not operate in substantial compliance with the statute or plan (revised)</p> <p>658I(b)(2)(B) - Secretary may impose additional sanctions (continued provision)</p>	<ul style="list-style-type: none"> ◆ revision reflects the amended statute, which allows the Secretary to require the State to reimburse improperly expended funds or to deduct an amount equal to improperly expended funds from the next year's administrative expenses ◆ added provision clarifying that the Secretary may impose other penalties, including sanctions for failing to submit required reports 	
<p>Application - 658E(a) - requires an application to be submitted to the Secretary "at such time, in such manner, and containing such information as the Secretary shall by rule require ..." (continued provision)</p>	<ul style="list-style-type: none"> ◆ in lieu of a separate application with budget estimates that are no longer necessary (due to statutory changes related to quality expenditures and administrative costs) -- provides that the application consist of the biennial plan, the new child care financial reporting form, and the certifications required by statutes other than the CCDBG Act 	<ul style="list-style-type: none"> ◆ reduces administrative burdens
<p>Registration - 658E(c)(2)(E)(ii) - States to register providers of CCDBG services if they were not otherwise licensed or regulated (deleted)</p>	<ul style="list-style-type: none"> ◆ if the State chooses not to maintain a registration process, it must at least maintain a list of providers serving children receiving CCDF subsidies who are unlicensed or otherwise unregulated <p>Note: this provision is intended to facilitate payment and facilitate providing unregulated providers serving CCDF-subsidized children with health & safety information.</p>	<ul style="list-style-type: none"> ◆ States may choose between registration and maintaining a list.

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In-home Care - 45 CFR 98.30, Parental Choice. 658E(c)(2)(a) (continued)	♦ as proposed in joint rule of 1994, allows Lead Agency to restrict or limit in-home care for other reasons than cost effectiveness	♦ increases flexibility, but does not eliminate a category of care that may be necessary to promote work

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Lead Agency - 658D(a) - State CEO to designate a State agency to serve as lead agency to administer CCDF.	◆ Tribal resolution identifying Lead Agency must be included in CCDF Plan.	◆ Provides certain protections to tribal grantees from "unauthorized" applications/plans or changes in consortia membership.
Coordination - 658D(b)(1)(D) - Coordination with "other Federal, State and local child care and early childhood development programs." (continued provision)	◆ Tribal consortia must describe the direct child care services funded by CCDF for each participating tribe.	◆ Ensures that services are being delivered at tribal or village level.
Data - 658O(d) - Data sources cited for States. Law is silent on Tribal data sources.	◆ Self-certification of tribal child counts.	◆ Based on consultations and comments from <u>Federal Register</u> Notice requesting comments on proposed data change and approach.
Construction/Renovation - 657O(c)(6) - Tribal grantees may request approval to spend funds for construction and/or renovation (but may not result in a decrease in level of child care services compared to the preceding fiscal year).	◆ New section describing certain requirements and uniform approval process.	◆ Based on consultations, minimal regulations proposed; explains that requests must be made in accordance with uniform procedures established by program instruction.
Minimum Child Care Standards - 658E(c)(2)(E) - In lieu of any licensing and regulatory requirements applicable under State and local law, the Secretary, in consultation with Tribes, shall develop minimum child care standards which reflect tribal needs and available resources.	◆ Until developed, tribal grantees must continue to have in place tribal and/or State licensing requirements for health and safety standards.	◆ Increases flexibility; ACF is developing consultation process with Tribes to establish minimum standards.
Exempt vs. Nonexempt Grantees - No Statutory Provision	◆ Retains regulatory requirements for larger tribes (including quality set-aside and certificate program requirement). NPRM requests comments on eliminating this distinction and having one set of requirements for all tribal Lead Agencies.	◆ Greater flexibility in designing and implementing CCDF programs.

Internet -
Access
Universal

DEBRA SAUNDERS



A laptop for every lap?

put them online. You've come a long way, America, from a chicken in every pot to a laptop on every lap.

Why? Turn on your television, and you can see ads starring young Marc John Jeffries, age 9, pitching a package offered by PeoplePC that provides a free computer and Internet access for less than \$300 per year.

That sum may be too much for some families, but consider that almost half of poor households own two color TVs. Three-quarters own a VCR. If they can find that money for TVs, they can buy a computer and enroll in private programs that provide Internet access for free.

So, why involve the federal

government?

"If you believe that \$25 per month is the right amount for a family making \$12,000 to pay for hardware and access, then, you should not be for this program," answered Wade Rendlett, vice president of the Internet start-up company Red Gorilla and an adviser to the White House on technology issues. "Conversely, if you believe that that family should get hardware and Internet access if they make a significant but lower commitment financially, then, you should be for it."

ClickStart families would have to agree to a co-payment of \$5 or \$10 per month for three years. A pilot program for parents of Oakland students would require parents to sign up for training and commit to "service hours" of volunteer work in public schools. So, to save \$15 or \$20 per month, they would have to sign up for training and service work. It would make more sense to work four more hours per month.

Mr. Rendlett argued that the fed-

eral government must intervene because only 6 percent to 8 percent of poor families own computers. Hence, the "digital divide" between those families and the 40 percent of all families that own computers. ClickStart would expand that percentage among the poor, which Mr. Rendlett considers a worthy use of federal dollars.

Mr. Rendlett admitted that he and his fellow high-tech brethren believe that in five years, the market will make Internet access so cheap that there will be no need for a federal subsidy. In that event, he said, he trusts Republicans in Congress to kill the program.

He can trust them. If he's wrong, his industry gets more tax money. But I don't trust either party. More likely, Republicans and Democrats will unite to expand the subsidy so high-tech companies can make even more money off the program.

As the Cato Institute's Steve Moore noted, "The closest thing to immortality is a government program in Washington."

Mr. Moore found a parallel in

Franklin D. Roosevelt's 1930s rural electrification project. The idea was to hook up rural households with electricity and phone service. That was done decades ago, yet, the federal government still subsidizes their service.

Added Mr. Moore, "Nothing the government gives away is ever free." He expects that the more Uncle Sam gives to the industry, the more it will want to regulate it.

Besides, if the high-techies are so eager to help poor families, let them give computers to charities and take the tax deduction.

Meanwhile, expect a new boondoggle from the president, who promised an end to the era of big government. Now, he wants the government to give away computers and online services, yet, somehow, there's not enough money in the kitty to cut everyone's income taxes.

Debra Saunders is a nationally syndicated columnist.

In his State of the Union address Thursday night, President Clinton is supposed to propose a new government program called "ClickStart," which would provide poor families with subsidies so they could buy computers and put themselves online. The era

of big government isn't over. Nor is the Clinton administration's menage a trois with big business and your tax dollars.

Mr. Clinton plans to announce a proposal to spend \$50 million annually in subsidies to provide poor households with computers and

consider that almost half of poor households own two color TVs. Three-quarters own a VCR. If they can find that money for TVs, they can buy a computer and enroll in private programs that provide Internet access for free.

So, why involve the federal

LINDA CHAVEZ

Why shouldn't women soccer players earn as much as their male counterparts, especially when the U.S. women's team are world champions and the men finished in last place? President Clinton is hoping to turn that question into the battle cry for his new fight for pay equity legislation in Congress.

On Monday, President Clinton enlisted World Cup women's soccer champion midfielder Michelle Akers in his effort to pass a \$27 million federal Equal Pay Initiative. Miss Akers' teammates on the championship U.S. women's soccer team are currently embroiled in a bitter wage dispute with the U.S. Soccer Federation, which has proposed paying the women champions less than their male counterparts currently earn.

President Clinton wants to convince the public that women's earnings should equal men's — they don't now, falling short about 25 cents on the dollar to men's wages on average. And what better example to show how unfair the system is than to trot out Miss Akers, whose pluck and skill helped make her team world champions but couldn't guarantee her equal pay?

Unfair it may be, but then, fairness has almost nothing to do with what determines wages — which is why President Clinton's campaign is likely to fail. For years now, feminists and their Democrat allies in Congress have proposed various schemes to ensure "pay equity" between men and women. Of course, equal pay for equal work is already the law of the land. Since 1963, the Equal Pay Act has made

Pay parity goals and penalties



it illegal for an employer to pay a female worker less than her male counterpart, so long as they are performing the same job. But it is not illegal for employers to pay different wages to employees who perform different jobs, even if the jobs seem in some way comparable.

If, for example, a company employs both computer software programmers, who are mostly

men, and librarians, who are mostly women, nothing in the law now mandates that the employer pay them the same wages. But "pay equity" advocates would like to change that. They argue that workers should be compensated based on their education, experience, responsibility and working conditions. If programmers and librarians measure the same on these criteria, then, their pay should be

equal. Any pay differential that favors the mostly male programmers must be discrimination, according to the feminists.

Of course, the feminists and Democrat politicians who make this claim probably haven't tried to hire any software programmers lately. If they did, they would quickly find the supply of those trained to program software can't keep up with the demand, which is why

employers are willing to pay a premium for programmers' services, no matter what sex they are. On the other hand, there are more women — and men — with degrees in library science than there are jobs to accommodate them, which is why their salaries remain lower than they might deserve. Sex doesn't have anything to do with it.

But what about soccer players? Those marvelous women who won the World Cup last July were performing the same job as the men, only doing it better. So, why shouldn't they make at least as much money as their male counterparts? Well, maybe they should. And if they can generate the same enthusiasm and audience for their future games as they did last summer, I'm betting they will, eventually.

For now, the U.S. Soccer Federation, which employs both teams, claims the men's team generated about \$4.1 million last year to the women's \$1.6 million. In essence, that's the current market for the two teams, which could change if the women keep outperforming and outdrawing the men. If so, the federation would be foolhardy to keep the women's wages lower, especially if it means the best players refuse to play, as about 20 of the champion players have during this labor dispute.

Michelle Akers and her teammates would be better off placing their faith in the market to reward their skills than in some bureaucratic "pay equity" scheme that has little chance of passing.

Linda Chavez is a nationally syndicated columnist.