



The Child Care and Development Block Grant: Background and Funding

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Summary

The Child Care and Development Block Grant (CCDBG) provides subsidies to assist low-income families in obtaining child care so that parents can work or participate in education or training activities. Discretionary funding for this program is authorized by the Child Care and Development Block Grant Act of 1990 (as amended), which is currently due for reauthorization. In addition, mandatory funding for child care subsidies is authorized in Section 418 of the Social Security Act (sometimes referred to as the “Child Care Entitlement to States”). In combination, these two funding streams are commonly referred to as the Child Care and Development Fund (CCDF). The CCDF is the primary source of federal funding dedicated solely to child care subsidies for low-income working and welfare families.

The CCDF is administered by the U.S. Department of Health and Human Services (HHS), and provides block grants to states, according to a formula, which are used to subsidize the child care expenses of working families with children under age 13. In addition to providing funding for child care services, funds are also used for activities intended to improve the overall quality and supply of child care for families in general.

Discretionary CCDF funds are subject to the annual appropriations process. The FY2010 Consolidated Appropriations Act (P.L. 111-117) provided \$2.127 billion for discretionary CCDF, the same level of funding as requested in the Obama Administration’s FY2010 Budget. This is also the same amount of funding the program received in the FY2009 Omnibus Appropriations Act (P.L. 111-8), though the American Recovery and Reinvestment Act appropriated an additional \$2.000 billion in one-time discretionary CCDF funding in FY2009. The mandatory (or capped entitlement) CCDF funding was directly appropriated (or pre-appropriated) for fiscal years 1997 through 2002 by the 1996 welfare reform law, which enacted the mandatory component of the CCDF. Temporary extensions provided mandatory CCDF funding into FY2006. On February 8, 2006, a spending budget reconciliation bill was enacted into law (P.L. 109-171), increasing mandatory child care funding by \$1 billion over five years (for a total amount of \$2.917 billion for each of fiscal years 2006 to 2010).

Federal funding levels for child care assistance continue to be a source of debate, in the context of increased work requirements for single welfare mothers, those leaving welfare for work, and low-income working families in general. Moreover, the quality of available child care services, and the relationship of child care programs to the broader world of early childhood education and care remain active concerns of Congress.

This report provides background information on the CCDBG and will be updated as necessary.

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Introduction

The Child Care and Development Block Grant (CCDBG) provides subsidies to assist low-income families in obtaining child care so that parents can work or participate in education or training activities. Discretionary funding for this program is authorized by the Child Care and Development Block Grant Act, which is currently due for reauthorization. In addition, mandatory funding for child care subsidies is authorized in Section 418 of the Social Security Act (sometimes referred to as the “Child Care Entitlement to States”). In combination, these two funding streams are commonly referred to as the Child Care and Development Fund (CCDF). While this term is not found in statute, it can serve as a useful catch-all when discussing the complex financing structure underlying federal support directly targeted to child care subsidies. For the purposes of this report, the term CCDBG will refer specifically to the discretionary funding stream, while the term CCDF will refer to the jointly administered funding streams.

The CCDF is administered by the Department of Health and Human Services (HHS), and provides block grants to states, according to a formula, which are used to subsidize the child care expenses of working families with children under age 13. In addition to providing funding for child care services, funds are also used for activities intended to improve the overall quality and supply of child care for families in general. Notably, the CCDF is the primary source of federal funding dedicated solely to child care subsidies for low-income working and welfare families.¹ The FY2010 funding level for the CCDF is approximately \$5.0 billion, which includes \$2.1 billion in discretionary funds and \$2.9 billion in mandatory fund.

A Brief Legislative History

The current structure of federal child care programs and funding is most easily understood by tracing its evolution from the system that existed prior to 1996, when the welfare reform law (P.L. 104-193) simultaneously repealed, created, and consolidated federal child care programs (see **Figure 1**).

Child Care Programs Prior to 1996

Before 1996, four separate federal programs specifically supported child care for low-income families. Three were associated with the cash welfare system, then Aid to Families with Dependent Children (AFDC). At that time, families on AFDC were entitled to free child care. In addition, families who had left the AFDC rolls with employment were entitled to 12 months of “transitional” subsidized child care. The third AFDC-related child care program targeted families who, without a child care subsidy, would be “at risk” of qualifying for AFDC. These three programs operated under three separate sets of rules, and targeted three separate populations. Critics argued that mothers navigating their way through the welfare system faced unnecessary complexity that could be alleviated with a more unified child care program.

¹ The second-largest source of federal support for child care is the Dependent Care Tax Credit, which is a nonrefundable tax credit used to offset some of the child care expenses of working families with children under 13.

All three of the AFDC-related child care programs were funded with mandatory money, and fell under the same congressional committee jurisdiction (the Ways and Means Committee in the House, and the Finance Committee in the Senate). AFDC Child Care and Transitional Child Care were both open-ended federal entitlements (i.e., there was no limit on program funding), with the federal share of payments to states based on the state's Medicaid matching rate. The AFDC At-Risk program, on the other hand, was not open-ended, but was instead authorized as a "capped entitlement" to the states at an annual level of \$300 million.

The fourth pre-1996 child care program for low-income families was the CCDBG. Established in the CCDBG Act of 1990 (as a component of the Omnibus Budget Reconciliation Act, P.L. 101-508), the CCDBG was designed to support child care for low-income families who were not connected to the AFDC welfare system. The CCDBG subsidized child care for children under age 13 whose working family income did not exceed 75% of state median income (SMI), adjusted for family size. In addition, it provided funds for activities to improve the overall quality and supply of child care for families in general. Unlike the AFDC-related programs, the CCDBG was funded with discretionary funds appropriated as part of the annual appropriations process. Authorizing legislation fell under the jurisdiction of the Education and Labor Committee in the House (later renamed the Committee on Education and the Workforce) and the Labor and Human Resources Committee in the Senate (later renamed the Committee on Health, Education, Labor and Pensions).

Child Care Programs After 1996 Reforms

The 1996 welfare reform law (P.L. 104-193) repealed AFDC and its three associated child care programs. Like cash welfare, child care was no longer an individual entitlement to welfare families. Instead of preserving three separate programs, the new law created a consolidated block of mandatory funding under Section 418 of the Social Security Act. Like the earlier three programs, this new block of funding was designed to be largely targeted toward families on, leaving, or at risk of receiving welfare (now Temporary Assistance for Needy Families, or TANF).² However, unlike the three AFDC-related child care programs, each of which was administered under its own set of rules, the 1996 law instructed that the new mandatory funding be transferred to each state's lead agency managing the CCDBG, and be administered according to CCDBG rules. The law authorized and appropriated funding for the new mandatory child care program through FY2002.

In addition to creating the new block of mandatory child care funding, the 1996 welfare reform law reauthorized the CCDBG through FY2002. This law also substantially amended the CCDBG by modifying program rules such as income eligibility requirements, which were expanded from 75% of SMI (under pre-1996 law) to 85% of SMI (under the 1996 law).

The child care provisions in the 1996 law were designed to achieve several purposes. As a component of welfare reform, the child care provisions were intended to support the overall goal

² Section 418 of the Social Security Act requires that states spend at least 70% of their mandatory child care funds on families receiving TANF assistance, families attempting to transition from TANF to work, or those "at-risk" of welfare dependency. However, because the at-risk group is not defined as a distinct group from other working poor families (the targeted group for CCDBG discretionary funds), the 70% target could, in practice, be met by spending all funds on low-income working families with no connection to TANF (i.e., the requirement could be met by spending all of the "earmarked" funds on "at-risk" families).

of promoting self-sufficiency through work. However, separate from the context of welfare reform, the legislation attempted to address concerns about the effectiveness and efficiency of child care programs. The previous four separate child care programs (the original CCDBG and the three AFDC programs) had different rules regarding eligibility, time limits on the receipt of assistance, and work requirements. Consistent with other block grant proposals considered in the 104th Congress, the child care provisions in P.L. 104-193 were intended to streamline the federal role, reduce the number of federal programs and conflicting rules, and increase the flexibility provided to states.

Figure 1. Child Care Programs Before and After Welfare Reform in 1996

Child Care System Prior to 1996 Welfare Law: Four Separate Programs	Child Care Post-1996 An Expanded, Unified CCDBG
<p>1. AFDC Child Care – Families on welfare entitled to free child care.</p> <p>2. Transitional Child Care – Families who left the welfare rolls with employment entitled to 12 months of subsidized child care.</p> <p>3. At-Risk Child Care – States entitled to capped funds for low-income families not on welfare but at-risk of being eligible without subsidized care.</p>	<ul style="list-style-type: none"> – Repealed the 3 AFDC-related child care programs. – Created 1 unified child care program, with 1 set of program rules, serving low-income families, regardless of welfare status. – Created a consolidated block of mandatory funding under the Social Security Act. (Deficit Reduction Act extended this funding for FY2006-10.) – Mandatory funds remain under Ways & Means and Finance jurisdiction, but are administered under CCDBG rules (which are under Education & Labor and HELP jurisdiction).
<p>4. CCDBG of 1990 – Child care subsidy program for low-income working parents at or below 75% of State Median Income</p>	<ul style="list-style-type: none"> – CCDBG reauthorized and amended: <ul style="list-style-type: none"> • Discretionary funding authorized at \$1 billion through FY2002. • (FY09 appropriation=\$2.1 billion) • Income eligibility limit increased to 85% of State Median Income. – Discretionary funding and CCDBG program rules maintain separate committee jurisdiction from the mandatory funding.

Source: Prepared by the Congressional Research Service (CRS).

Program Rules and Benefits

At the federal level, the CCDF is administered by the Administration for Children and Families (ACF) within HHS. Federal law requires states to designate a lead agency to administer the CCDF. The responsibilities of the lead agency are to administer federal funds, develop a state plan, and coordinate services with other federal, state, or local child care and early childhood development programs. States have tremendous flexibility in the design and operation of their

child care policies, but federal law establishes program goals and a set of requirements that states must meet in order to receive CCDF funds.

Goals

The 1996 law established five goals for the CCDF. They include (1) allowing states maximum flexibility in developing their child care programs; (2) promoting parental choice; (3) encouraging states to provide consumer education information to parents; (4) helping states to provide child care to parents trying to become independent of public assistance; and (5) helping states to implement health, safety, licensing and registration standards established in state regulations.

Eligible Children and Families

Federal law states that children eligible for services under the CCDF are those whose family income does not exceed 85% of the state median. However, states have the discretion to adopt income eligibility limits below this federal maximum, and most do. According to a summary of state plans submitted to HHS, state income eligibility limits range from 34% to 85% of SMI in FY2009.³ Because child care funding is not an entitlement for individuals, states are not required to aid families even if their incomes fall below the state-determined eligibility threshold. Federal law does, however, require states to give priority to families defined in their state plan as “very low income.”

To be eligible for CCDF funds, children must be less than 13 years old and be living with parents who are working or enrolled in school or training, or be in need of protective services. States must use at least 70% of their total mandatory CCDF funds for child care services for families who are receiving public assistance under TANF, families who are trying to become independent of TANF through work activities, and/or families who are at risk of becoming dependent on public assistance. In their state plans, states must demonstrate how they will meet the specific child care needs of these families. Of their remaining child care funds (including discretionary CCDBG funds), states must ensure that a substantial portion is used for child care services to eligible families other than welfare recipients or families at risk of welfare dependency. Preliminary HHS program data indicate that about 1.7 million children received child care subsidies funded by the CCDF in an average month in FY2007.⁴

Methods of Payment for Child Care Subsidies

Parents of children eligible to receive subsidized child care must be given maximum choice in selecting a child care provider. Parents must be offered the option to enroll their child with a provider that has a grant or contract with the state to provide such services, or parents may receive a certificate that can be used to purchase child care from a provider of the parents' choice. A child care certificate (also sometimes referred to as a voucher) is an authorization form, letter,

³ National Child Care Information and Technical Assistance Center (NCCIC), *Child Care and Development Fund Report of State and Territory Plans FY 2008–2009*, U.S. Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance, Child Care Bureau, p. 71, <http://nccic.acf.hhs.gov/pubs/stateplan2008-09/part3.pdf> (hereinafter *CCDF Report of State and Territory Plans FY2008-FY2009*).

⁴ See Table 1 of the preliminary FY2007 CCDF data tables available online at http://www.acf.hhs.gov/programs/ccb/data/ccdf_data/07acf800_preliminary/table1.htm.

voucher, or other disbursement document authorizing child care payments for the provider of the parents' choice. The certificate may be in the form of a check or other disbursement directly to the parent, but must be used for child care services only. Under limited circumstances, payments can also be provided in the form of cash. The 1996 law expanded the definition of "child care certificate" to allow the vouchers or disbursements to be used as a deposit for child care services, if such deposits are required for other children cared for by the same provider.

Parental Co-payments

The CCDBG Act generally requires that families contribute to the cost of care on a sliding fee scale basis. However, federal regulations allow states to waive child care fees for families with incomes at or below the poverty guidelines.⁵ According to a summary of state plans submitted to HHS, nearly all states anticipated waiving fees for some or all families with incomes at or below the poverty level.⁶ HHS has suggested that a family's fee should be no more than 10% of its income. States may use this 10% limit as a guide in deciding the amount of the fee, but are not required to do so. Federal statute requires that states take family size and income into account when establishing co-payments, but states may also take other factors into account, such as the number of children in care, whether care is full-time or part-time, or cost of care. States have flexibility in establishing rules for counting income.

Provider Payment Rates

States must establish payment rates for child care services that are sufficient to ensure equal access for eligible children to comparable child care services provided to children whose families are not eligible for subsidies. Essentially, payment rates are reimbursement rate ceilings (that is, the maximum rate providers can receive for child care services through CCDF). Providers are paid either the state's established payment rate (i.e., reimbursement rate ceiling) or the actual fee that providers charge to nonsubsidized parents, whichever is the lesser of the two. When determining payment rates, states are not required to consider variations in costs based on child care settings, age groups, and special needs (this was required prior to the 1996 law); however many state plans do link payment rates to such characteristics and/or to regional variation.

States are required to conduct a local market rate survey every two years to assess the price of child care being charged. Federal regulations suggest that states establish payment rates equal to at least the 75th percentile of the market rate to ensure equal access for eligible families. (That is, HHS recommends that states set their payment rate ceiling at a level that, on average, equals or exceeds the rate charged by three out of every four providers who responded to the local market rate survey.) However, federal law does not require that payments be set at this rate, nor that states use the most current market survey when setting rates. Instead, states must include a summary of the facts they used in determining the sufficiency of their payment rates to ensure equal access when they submit their state plans. According to a summary of state plans submitted

⁵ In addition, state lead agencies may choose to waive, on a case-by-case basis, contributions from eligible families whose children are in protective services or in foster care.

⁶ *CCDF Report of State and Territory Plans FY2008-FY2009*, p. 88. According to this summary of state plans, only two states (Illinois and Wyoming) planned to offer no waivers whatsoever with respect to copayments from families at or below poverty during FY2008 and FY2009.

to HHS, state payment rates in FY2009 are expected to range from an average of the 10th percentile of the current market rate survey to the 85th percentile across the country.⁷

Activities to Improve Child Care Quality and Availability

Federal law requires that no less than 4% of expenditures made from states' CCDF allotments (discretionary and mandatory) be spent on activities designed to (1) provide consumer education to parents and the public, (2) increase parental choice, and (3) otherwise improve the quality and availability of child care (such as resource and referral services). States use quality funds for a variety of activities, including professional development, licensing and monitoring, and improving provider compensation.⁸ In addition, federal appropriations frequently target portions of discretionary CCDBG funds toward quality improvement activities, including specific quality set-asides in areas such as infant and toddler care, school-aged child care, and child care resource and referral services.

Limitations on Use of Funds

Although the CCDF is a fairly flexible funding source for states, there are some limitations on use of funds. For instance, CCDF regulations prohibit states from expending more than 5% of aggregate CCDF funds from each fiscal year's allotment on administrative costs. However, regulations also specify that costs considered to be an "integral part of service delivery" should be excluded from the 5% administrative cap. These activities include eligibility determination (and redetermination), the establishment and maintenance of computerized child care information systems, and determination of erroneous payments (including case reviews and the preparation of error rate reports).

In addition, the CCDBG Act prohibits the use of federal funds for the purchase or improvement of land or buildings, with a limited exception for sectarian organizations. The amendments of 1996 also added an exception for Indian tribes and tribal organizations with respect to construction, though this is subject to the Secretary's approval. Finally, the law states that, in general, no federal CCDF funds be used for any sectarian purpose or activity, including sectarian worship or instruction (more detail on this in the section on "Religious Providers").

State Application and Plan

To receive federal funding for child care, states must submit an application and plan to HHS. After an initial three-year plan, required by the original CCDBG Act in 1990, states are now required to submit plans that cover a two-year period. State plans include detailed information on many components of CCDF program administration, including state decisions about child and family income eligibility criteria, state priorities in children served, sliding fee scales, provider payment rates, and specific quality improvement initiatives. In addition, state plans must certify, or assure, that their programs will include certain elements related to parental choice, parental

⁷ *CCDF Report of State and Territory Plans FY2008-FY2009*, p. 67.

⁸ For more information on what states are doing with quality funds, see Part 5 of the *CCDF Report of State and Territory Plans FY2008-FY2009*, online at <http://nccic.acf.hhs.gov/pubs/stateplan2008-09/part5.pdf>.

access, parental complaints, consumer education information, licensing and regulation, and health and safety requirements.

Parental Choice

Parents of children eligible to receive subsidized child care must be given the option to enroll their child with a provider that has a grant or contract with the state program to provide such services, or to receive a child care certificate or voucher that can be used with a provider of the parents' choice. State plans must include a detailed description of how this parental choice provision is implemented. In addition, they must assure that the value of child care certificates will be commensurate with the subsidy value of child care services provided under a grant or contract, and that their payment rates for all subsidies will be sufficient to ensure equal access for eligible children to comparable child care services provided to children whose families are not eligible for subsidies. States may not significantly restrict parental choice among the various types of child care providers, which range from child care centers to family homes. Under the CCDBG Act, eligible child care providers can include individuals, age 18 and older, who provide child care services for their grandchildren, great grandchildren, siblings (if the provider lives in a separate residence), nieces, or nephews.

Parental Access

States must have procedures to ensure that child care providers receiving subsidies will give parents unlimited access to their children and to providers while the children are in care. State plans must include a detailed description of these procedures.

Parental Complaints

States are required to maintain a record of substantiated complaints made by parents, and to make information about these complaints publicly available upon request. The state plan must include a detailed description of how this record is maintained and made available.

Consumer Education Information

Under the CCDBG Act, states must collect and disseminate, to parents of eligible children and to the general public, consumer education information that will promote informed child care choices. At a minimum, the information must include information about the full range of providers available, and health and safety requirements.

Licensing and Regulation

States must have in effect licensing requirements applicable to child care services provided within the state, and state plans must include a detailed description of these requirements and how they are effectively enforced. Federal law does not dictate what these licensing requirements should be or what types of providers they should cover. The 1996 law specifies that this provision shall not be construed to require that licensing requirements be applied to specific types of providers. The conference report on the 1996 law further states that the legislation is not intended to either

prohibit or require states to differentiate between federally subsidized child care and nonsubsidized child care with regard to the application of specific standards and regulations.

Health and Safety Requirements

States must have in effect, under state or local law, health and safety requirements that are applicable to child care providers; and states must have procedures in effect to ensure that subsidized child care providers (including those receiving child care certificates) comply with applicable health and safety requirements. States must have health and safety requirements in the following areas: prevention and control of infectious diseases (including immunization), building and physical premises safety, and health and safety training. In addition, state plans must assure that children receiving services under the CCDF are age-appropriately immunized, and that the health and safety provisions regarding immunizations incorporate (by reference or otherwise) the latest recommendation for childhood immunizations of the state public health agency.

Restriction Against Supplanting State Funds

HHS requires states to assure that discretionary CCDBG funds will be used to supplement, not supplant, state general revenue funds for child care assistance for low-income families. While this is not a requirement in the CCDBG Act or accompanying regulations, federal appropriation laws typically make this stipulation. For instance, this stipulation was included in the FY2010 Consolidated Appropriations Act (P.L. 111-117).

Funding⁹

Discretionary Appropriations

Discretionary CCDBG funds are subject to the annual appropriations process. The 1996 amendments to the CCDBG Act authorized funding through FY2002 at an annual authorization level of \$1 billion. Actual appropriations have surpassed the authorized level, reaching approximately \$2.1 billion in each of fiscal years 2002 through 2009 (see **Table 1**). In years since FY2002, appropriations have been made without an authorization level.

FY2010 Appropriations

On December 16, 2009, President Obama signed the Consolidated Appropriations Act, 2010, into law as P.L. 111-117. The measure provided \$2.127 billion in discretionary funds for the CCDBG, reflecting the conference report (H.Rept. 111-366) filed on the bill, H.R. 3288, on December 8, 2009. The House and Senate agreed to the conference report on December 10 and December 13, respectively.

⁹ For a detailed discussion of child care funding history and the financing of the CCDF, see CRS Report RL31274, *Child Care: Funding and Spending under Federal Block Grants*, by Melinda Gish.

Prior to the passage of H.R. 3288, both the House and Senate had initiated the Labor-HHS-Education (L-HHS-ED) appropriations process for FY2010. Although the full Senate did not pass a bill to provide L-HHS-ED appropriations for FY2010, the Senate Appropriations Committee did report such a bill (S.Rept. 111-66, H.R. 3293) on August 4, 2009, which sought to maintain funding for the CCDBG at the \$2.127 billion level. Meanwhile, on July 24, 2009, the House passed its FY2010 L-HHS-ED appropriations bill, H.R. 3293, which also sought to maintain funding for the CCDBG at \$2.127 billion. Prior to consideration by the full House, this bill was reported by the House Committee on Appropriations on July 22, 2009 (H.Rept. 111-220).

President's FY2010 Budget Request

In May 2009, the Obama Administration released the detailed FY2010 Budget. The request proposed to maintain discretionary CCDBG funding at \$2.127 billion in FY2010, the same level of funding the discretionary CCDBG received under the omnibus appropriation in FY2009 (P.L. 111-8).¹⁰

FY2009 Appropriations

President Obama signed the FY2009 Omnibus Appropriations Act (P.L. 111-8) into law on March 11, 2009. The FY2009 Omnibus funded the discretionary CCDBG at an annual level of \$2.127 billion in FY2009, an increase of \$65 million above the funding level proposed in the FY2009 budget request submitted by President Bush.

Prior to the passage of the FY2009 Omnibus Appropriations Act, Congress had passed two continuing resolutions (CRs) for FY2009 (P.L. 110-329 and P.L. 111-6). Both CRs funded the discretionary CCDBG at \$2.062 billion, the level it had received in FY2008. The first of the two CRs (P.L. 110-329) was signed into law by President Bush on September 30, 2008, and remained in effect until March 6, 2009. The second CR (P.L. 111-6) was signed into law by President Obama on March 6, 2009, and lasted until it was superseded by the FY2009 Omnibus on March 11, 2009.

In addition to annual appropriations contained in the FY2009 Omnibus, the CCDBG received \$2.0 billion in discretionary funds from the American Recovery and Reinvestment Act (ARRA) in FY2009. The ARRA was signed into law by President Obama on February 17, 2009 (P.L. 111-5). The ARRA specifies that the CCDBG funds should be used to supplement, not supplant, state general revenue spending on child care assistance for low-income families. The ARRA also specifies that a sum of approximately \$255 million be reserved, out of the total appropriated to CCDBG, for activities designed to (1) provide comprehensive consumer education to parents and the public, (2) increase parental choice, and (3) improve quality and availability of child care (such as resource and referral services). This sum would augment the amount that states are already required by law to use for such activities (not less than 4% of the total amount received by each state). Of the \$255 million, nearly \$94 million is reserved for activities designed to improve the quality of infant and toddler care.

¹⁰ The Obama Administration's FY2010 Budget also proposes maintaining mandatory CCDF funding at its pre-appropriated level of \$2.917 billion in FY2010.

President's FY2009 Budget Request

On February 4, 2008, the Bush Administration released its proposed budget for FY2009, which proposed maintaining both the discretionary and mandatory portions of the CCDF at current levels (\$2.062 billion and \$2.917 billion respectively).

Mandatory Pre-appropriations

The 1996 welfare reform law provided pre-appropriated mandatory CCDF funding to states from FY1997 to FY2002. The annual amounts of mandatory funding were \$1.967 billion in FY1997; \$2.067 billion in FY1998; \$2.167 billion in FY1999; \$2.367 in FY2000; \$2.567 billion in FY2001; and \$2.717 billion in FY2002. Because these funds were directly appropriated by the welfare reform law, the mandatory funding for CCDF did not go through the annual appropriations process. Mandatory CCDF funding was extended through FY2005 (at the FY2002 rate of \$2.717 billion annually) via a series of continuing resolutions; welfare reauthorization legislation was debated in each of these years, without reaching fruition. Finally, on February 8, 2006, a spending budget reconciliation bill (S. 1932, The Deficit Reduction Act), which included mandatory child care funding provisions, was passed into law (P.L. 109-171). The law pre-appropriated \$2.917 billion annually for each of FY2006-FY2010.

Additional Funding History

Beginning in FY1997, the treatment of CCDBG funding in the appropriations process was changed to reflect states' actual obligation of money for the program. Prior to FY1997, the funds appropriated for the CCDBG only became available for obligation by the states in the last month of the year in which they were appropriated. As a result, most of a given year's appropriation was actually obligated during the next fiscal year. With the enactment of the FY1997 appropriations law, that practice was changed so that the CCDBG was officially advance funded by an entire year. In other words, the FY1997 appropriation became available for obligation at the beginning of FY1998 (rather than the end of FY1997). As a result of this change, only \$19 million was appropriated in FY1997 specifically for FY1997; this amount was added to funds previously appropriated and available for obligation at the end of FY1996. The bulk of the FY1997 appropriation—\$937 million—was to become available in FY1998. This practice of advance funding continued in fiscal years 1999-2001, and is shown in **Table 1**.

Table 1. Funding Trends in the CCDF, FY1997-FY2010

(\$ in millions)

Fiscal Year	Discretionary Funding			Mandatory Funding	Total
	Advance Appropriation from Prior Year	Same Year's Appropriation	All Available Funds for FY		
1997	0 ^a	19 ^a	19 ^a	1,967	1,986^a
1998	937	66	1,002	2,067	3,069
1999	1,000	0	1,000	2,167	3,167
2000	1,183	0	1,183	2,367	3,550
2001	1,183	817	2,000	2,567	4,567

Fiscal Year	Discretionary Funding			Mandatory Funding	Total
	Advance Appropriation from Prior Year	Same Year's Appropriation	All Available Funds for FY		
2002	0	2,100	2,100	2,717	4,817
2003	0	2,086 ^b	2,086 ^b	2,717 ^c	4,803^b
2004	0	2,087 ^d	2,087 ^d	2,717 ^e	4,804^d
2005	0	2,083 ^f	2,083 ^f	2,717 ^g	4,800^f
2006	0	2,062 ^h	2,062 ^h	2,917 ⁱ	4,979
2007	0	2,062 ^j	2,062 ^j	2,917 ⁱ	4,979
2008	0	2,062 ^k	2,062 ^k	2,917 ⁱ	4,979
2009	0	2,127 ^l	2,127 ^l	2,917 ⁱ	5,044^m
2010	0	2,127	2,127	2,917	5,044

Source: Prepared by the Congressional Research Service (CRS) using annual U.S. Department of Health and Human Services, Administration for Children and Families budget justifications and appropriations legislation for relevant years.

- a. What appears in the table to be limited discretionary CCDBG funding in FY1997, and consequently, in total funding, actually reflects a shift to advance appropriating of funds for the following fiscal year. The FY1997 appropriation law provided \$956 million for CCDBG, with only \$19 million available immediately during FY1997, and the remainder available on Oct. 1, 1997 (the first day of FY1998). In earlier years the funds appropriated for CCDBG became available for obligation only in the last month of the given fiscal year, and therefore most of the appropriation for a given year (\$935 million in FY1996) was actually obligated in the following fiscal year.
- b. The figure shown reflects the 0.65% “across-the-board” cut included in the Consolidated Appropriations Resolution, 2003 (P.L. 108-7).
- c. P.L. 108-40 extended mandatory funding for the CCDF through the final quarter of FY2003, at the FY2002 rate.
- d. The figure shown reflects the 0.59% “across-the-board” cut included in the Consolidated Appropriations Act, 2004 (P.L. 108-199).
- e. P.L. 108-262 extended mandatory funding for the CCDF through Sept. 30, 2004, at the FY2002 rate (which was also maintained during FY2003).
- f. The figure shown reflects the 0.8% “across-the-board” cut included in the Consolidated Appropriations Act, 2005 (P.L. 108-447).
- g. P.L. 108-308 extended (and maintained) mandatory funding for the CCDF through Mar. 31, 2005, at the FY2002 rate. P.L. 109-19 extended (and maintained) the funding through Sept. 30, 2005.
- h. The figure shown reflects the 1% “across-the-board” cut included in the FY2006 Defense Appropriations Act (P.L. 109-148) that applies to discretionary programs funded by P.L. 109-149. Prior to the rescission, funding was set at \$2.083 billion. In FY2006, the Secretary of HHS invoked his authority (per section 2008 of the L-HHS-ED and Related Agencies Appropriation Act of 2006) to transfer a portion of the CCDBG appropriation—\$1.417 million—to the Centers for Medicare and Medicaid. This transfer is not reflected above; when including it, total FY2006 discretionary CCDBG funding would round to \$2.061 billion.
- i. The Deficit Reduction Act (S. 1932/P.L. 109-171), provides \$2.917 billion in mandatory CCDF funding for each of FY2006-FY2010.
- j. FY2007 funding was provided via four continuing resolutions, the last of which was P.L. 110-5.
- k. This amount reflects the 1.747% across-the-board cut included in the Consolidated Appropriations Act of 2008 (P.L. 110-161).

- i. In addition to the \$2.127 billion appropriated in the FY2009 Omnibus Appropriations Act (P.L. 111-8), the American Recovery and Reinvestment Act (P.L. 111-5) provided an additional \$2.0 billion in discretionary funding for the CCDBG.
- m. This amount does not include funding appropriated by the American Recovery and Reinvestment Act (P.L. 111-5), which provided \$2.0 billion to the CCDBG, for a total of \$7.044 billion in FY2009 CCDF funds.

Allocation of Funds

Discretionary Funds

Discretionary CCDBG funds are allocated among states according to a formula that is based on each state's share of children under age five, the state's share of children receiving free or reduced-price lunches, and state per capita income. Half of 1% of appropriated funds is reserved for the territories, and between 1% and 2% is reserved for payments to Indian tribes and tribal organizations. States are not required to match these discretionary funds. Funds must be obligated in the year they are received or in the subsequent fiscal year, and the law authorizes the Secretary to reallocate unused funds. **Table 2** displays the FY2009 discretionary CCDBG allocations from both the FY2009 Omnibus and the ARRA.

Mandatory Funds

The Secretary must reserve between 1% and 2% of mandatory funds for payments to Indian tribes and tribal organizations. After this amount is reserved, remaining mandatory funds are allocated to states in two components. First, each state receives a fixed amount each year, equal to the funding received by the state under the child care programs previously authorized under AFDC in FY1994 or FY1995, or the average of FY1992-FY1994, whichever is greater. This amount equals \$1.2 billion each year, and is sometimes referred to as "guaranteed mandatory" funds. No state match is required for these funds, which may remain available for expenditure by states with no fiscal year limitation.

Second, remaining mandatory funds (after distribution of the "guaranteed" portion) are allocated to states according to each state's share of children under age 13. States must meet maintenance-of-effort and matching requirements to receive these funds. Specifically, states must spend all of their "guaranteed" federal entitlement funds for child care described above, plus 100% of the amount they spent of their own state funds in FY1994 or FY1995, whichever is higher, under the previous AFDC-related child care programs. Further, states must provide matching funds at the Medicaid matching rate to receive these additional entitlement funds for child care. If the Secretary determines that a state will not spend its entire allotment for a given fiscal year, then the unused amounts may be redistributed among other states according to those states' shares of children under age 13. **Table 2** displays the FY2009 CCDF allocations for both the "guaranteed" mandatory and the federal share of mandatory matching funds.

Table 2. FY2009 CCDF Allocations
(amounts, in dollars, do not include potential re-allotments)

Recipient (State, Terr., Tribe, Other)	Mandatory Funds		Discretionary Funds		Total Federal
	"Guaranteed" Mandatory	Federal Share Matching Funds	FY2009 Omnibus	ARRA	
Alabama	16,441,707	25,408,245	40,699,663	38,470,990	121,020,605
Alaska	3,544,811	4,063,825	4,269,912	4,036,095	15,914,643
Arizona	19,827,025	38,843,917	53,824,247	50,876,886	163,372,075
Arkansas	5,300,283	16,012,812	26,589,798	25,133,767	73,036,660
California	85,593,217	211,811,933	233,034,605	220,273,864	750,713,619
Colorado	10,173,800	27,529,729	25,720,747	24,312,305	87,736,581
Connecticut	18,738,357	18,178,031	14,478,449	13,685,624	65,080,461
Delaware	5,179,330	4,655,334	4,809,076	4,545,736	19,189,476
District of Columbia	4,566,974	2,596,430	2,841,092	2,685,517	12,690,013
Florida	43,026,524	91,403,553	111,433,225	105,331,254	351,194,556
Georgia	36,548,223	58,395,506	87,646,485	82,847,053	265,437,267
Hawaii	4,971,633	6,473,217	6,822,298	6,448,715	24,715,863
Idaho	2,867,578	9,406,606	12,638,572	11,946,497	36,859,253
Illinois	56,873,824	72,660,972	78,046,369	73,772,628	281,353,793
Indiana	26,181,999	36,039,410	45,241,711	42,764,321	150,227,441
Iowa	8,507,792	15,992,058	19,170,605	18,120,842	61,791,297
Kansas	9,811,721	15,879,664	19,482,264	18,415,435	63,589,084
Kentucky	16,701,653	22,798,415	36,920,367	34,898,645	111,319,080
Louisiana	13,864,552	24,414,650	42,332,204	40,014,134	120,625,540
Maine	3,018,598	6,066,612	7,149,448	6,757,951	22,992,609
Maryland	23,301,407	30,454,015	25,433,096	24,040,405	103,228,923
Massachusetts	44,973,373	31,846,226	25,355,376	23,966,942	126,141,917
Michigan	32,081,922	54,088,623	62,080,653	58,681,179	206,932,377
Minnesota	23,367,543	28,427,578	27,609,193	26,097,341	105,501,655
Mississippi	6,293,116	17,475,750	32,778,293	30,983,387	87,530,546
Missouri	24,668,568	32,065,667	40,922,593	38,681,713	136,338,541
Montana	3,190,691	4,851,889	6,079,937	5,747,006	19,869,523
Nebraska	10,594,637	10,187,127	12,482,903	11,799,352	45,064,019
Nevada	2,580,422	15,305,948	15,144,641	14,315,336	47,346,347
New Hampshire	4,581,870	6,513,515	5,010,614	4,736,238	20,842,237
New Jersey	26,374,178	46,381,871	36,081,817	34,106,014	142,943,880
New Mexico	8,307,587	11,375,335	18,848,669	17,816,534	56,348,125
New York	101,983,998	98,195,618	102,392,553	96,785,640	399,357,809

Recipient (State, Terr., Tribe, Other)	Mandatory Funds		Discretionary Funds		Total Federal
	"Guaranteed" Mandatory	Federal Share Matching Funds	FY2009 Omnibus	ARRA	
North Carolina	69,639,228	50,968,578	71,455,992	67,543,134	259,606,932
North Dakota	2,506,022	3,180,045	3,854,955	3,643,862	13,184,884
Ohio	70,124,656	61,627,213	72,088,324	68,140,840	271,981,033
Oklahoma	24,909,979	20,598,914	31,905,779	30,158,651	107,573,323
Oregon	19,408,790	19,459,057	23,814,406	22,510,354	85,192,607
Pennsylvania	55,336,804	61,379,602	63,631,144	60,146,767	240,494,317
Rhode Island	6,633,774	5,136,805	5,526,768	5,224,128	22,521,475
South Carolina	9,867,439	23,947,853	38,420,103	36,316,257	108,551,652
South Dakota	1,710,801	4,446,971	5,776,337	5,460,031	17,394,140
Tennessee	37,702,188	33,464,276	44,361,712	41,932,510	157,460,686
Texas	59,844,129	154,440,610	227,298,219	214,851,599	656,434,557
Utah	12,591,564	19,457,466	23,661,260	22,365,594	78,075,884
Vermont	3,944,887	2,816,093	2,986,934	2,823,373	12,571,287
Virginia	21,328,766	41,548,889	40,086,857	37,891,741	140,856,253
Washington	41,883,444	34,566,445	35,283,281	33,351,204	145,084,374
West Virginia	8,727,005	8,682,904	13,803,056	13,047,215	44,260,180
Wisconsin	24,511,351	29,495,338	32,259,829	30,493,313	116,759,831
Wyoming	2,815,041	2,825,579	2,736,365	2,586,525	10,963,510
America Samoa	-	-	2,831,968	2,662,774	5,494,742
Guam	-	-	3,978,605	3,740,906	7,719,511
N. Mariana Islands	-	-	1,938,850	1,823,015	3,761,865
Puerto Rico	-	-	35,353,476	33,417,556	68,771,032
Virgin Islands	-	-	1,885,982	1,773,305	3,659,287
Tribes	58,340,000	-	42,541,620	40,000,000	140,881,620
Technical Assistance	3,792,100	3,500,400	5,317,703	5,000,000	17,610,203
Child Care Aware ^a	-	-	1,000,000	-	1,000,000
Research & Evaluation ^b	-	-	9,910,000	-	9,910,000
Total	1,239,656,881	1,677,343,119	2,127,081,000	2,000,000,000	7,044,081,000

Source: Prepared by the Congressional Research Service (CRS) based on data from the U.S. Department of Health and Human Services (HHS). In estimating allocations, HHS used data from the following sources: population under age 5 and population under age 13 from the Census Bureau, published July 2007; FY2007 participants in Free and Reduced School Lunch Program from the Department of Agriculture; and per capita income for 2004, 2005, and 2006 from the Department of Commerce, published March 2008.

Notes:

- a. The FY2009 Omnibus (P.L. 111-8) included a \$1 million set-aside for Child Care Aware, specifying that this amount come out of the \$19 million targeted funds for resource and referral and school-age care activities.

- b. The FY2009 Omnibus also included \$9,910,000 for research, demonstration, and evaluation.

Transfer of Funds from TANF

In addition to amounts provided to states specifically for CCDF, states may also transfer up to 30% of their TANF block grant allotment to the CCDF. Transferred funds must be spent according to the CCDBG Act rules. The transfer from the FY2008 TANF allotment to the CCDF totaled nearly \$1.725 billion (representing 10% of the FY2008 TANF allotment). It should be noted, however, that states may choose to move previously transferred TANF funds back to TANF, and when these amounts are taken into account, the net amount transferred in FY2008 (as opposed to funds from only the FY2008 TANF allotment) comes to just under \$1.679 billion. Nothing precludes a state from using TANF funds for child care services without formally transferring them to the CCDF, in which case the CCDBG Act rules do not necessarily apply. HHS reports that in FY2008, states spent almost \$1.622 billion in federal TANF money on child care within the TANF program. (In addition, states report spending \$2.614 billion in FY2008 on child care through state TANF and separate state program (SSP) MOE funds.)

Federal Enforcement

The Secretary must coordinate child care activities within HHS, and, to the extent practicable, with similar activities in other federal agencies. The Secretary is also required to publish a list of child care standards every three years, and to provide technical assistance to states. The Secretary must monitor state compliance with the statute and state plans, and must establish procedures for receiving and assessing complaints against a state.

Upon finding that a state is out of compliance with either the statute, regulation, or state plan, the Secretary is authorized to require that the state reimburse the federal government for any misspent funds, or to withhold the amount from the state's CCDF allotment for the next fiscal year, or to take a combination of these steps.

States also must arrange for independent audits of their programs, and must repay the federal government for any funds that are found to have been misspent, or the Secretary may offset these amounts against future payments due to the state. In addition, states are now required to complete a case review every three years to check for improperly authorized payments. This new mandate is tied to "State Error Rate Reporting" requirements added to CCDF regulations in 2007.

Recent Regulations

In 2007, HHS published two final rules that affect the CCDF program. These rules amend existing CCDF regulations with respect to state error rate reporting and state match requirements.

State Error Rate Reporting

Following the enactment of the Improper Payment Information Act of 2002 (P.L. 107-300), the Office of Management and Budget (OMB) identified CCDF as a program at risk of significant

improper payments.¹¹ As with other “high risk” programs, HHS was required to complete erroneous payment risk assessments for CCDF every three years. HHS has taken a number of steps to respond to this mandate, culminating in the publication of new regulations, effective October 1, 2007, on state requirements for error rate reporting.¹²

The new regulations specify that states must calculate, prepare, and submit to HHS a report of errors occurring in the administration of CCDF grant funds. In this report, states must establish target error rates (i.e., goals for reducing future errors) and discuss strategies for reducing error rates. In addition, states must report on:

- state error rates (defined as the percentage of cases with an error and expressed as the total number of cases with an error compared to the total number of cases);
- percentage of cases with an improper payment (expressed as the total number of cases with an improper payment compared to the total number of cases);
- percentage of improper payments (expressed as the total amount of improper payments in the sample compared to the total dollar amount of payments made in the sample);
- average amount of improper payment; and
- estimated annual amount of improper payments.

The CCDF error rate methodology requires that states conduct a comprehensive review of a random sample of case records to determine whether child care subsidies were properly authorized to eligible families. The methodology focuses on administrative errors and improper authorizations for payment made during the client eligibility determination process.¹³ States must conduct these reviews and report their findings to HHS once per every three-year reporting cycle. States are required to provide federal staff with access to, and the opportunity to participate and provide oversight in, case reviews and calculations of error rates.

HHS uses a three-year rotation for measuring CCDF improper authorizations for payments. A stratified random sampling method was used for selecting states, with approximately one-third of the total of 52 states (50 states plus the District of Columbia and Puerto Rico) selected to participate in each year of a three-year cycle implementing the error rate measurement methodology. To date, HHS has reported two years of data (FY2007 and FY2008) in the annual HHS Agency Financial Report.¹⁴ According to the most recent data, the CCDF payment error rate (or percentage of improper authorizations for payment) was estimated at 11.9% for FY2008, a slight increase from 11.5% in FY2007.¹⁵ The actual amount of improper authorizations for

¹¹ OMB Circular A-123, Appendix C, http://www.whitehouse.gov/OMB/Circulars/a123/a123_appx-c.pdf.

¹² The new regulation was codified at 45 CFR 98 (subpart K). CCDF regulations are available online at <http://www.acf.hhs.gov/programs/ccb/law/finalrul/index.htm>.

¹³ The CCDF methodology distinguishes between authorizations for payment and actual payments made to providers for child care services rendered.

¹⁴ FY2007 base error rate data were reported in the HHS FY2008 Agency Financial Report, available online at <http://www.hhs.gov/afr/2008sectiii.pdf>, while FY2008 error rate data were reported in the FY2009 Agency Financial Report, available online at <http://www.hhs.gov/afr/2009sectiii-oai.pdf>.

¹⁵ The national over-authorization error rate (or the percentage of authorizations in excess of the amounts for which cases are eligible) was 11.5% in FY2008, while the percentage of under-authorizations was equal to 0.4%. For more information, see the FY2009 Agency Financial Report, available online at <http://www.hhs.gov/afr/2009sectiii-oai.pdf>.

CCDF payments identified in state case review samples was \$220,314 for FY2008.¹⁶ (HHS has noted that the amount of improper authorizations for payment does not represent *actual* improper payments, and indicated that, in general, the amount of actual improper payments is about 15% lower, on average.) Data from the third round of participating states (FY2009) will be released in the FY2010 HHS Agency Financial Report.

Regulations state that improper payments identified during the case reviews are subject to federal disallowance procedures for misspent funds (that is, funds identified as having been improperly spent will be disallowed for the purposes of federal reimbursement).¹⁷ Improperly spent funds are subject to disallowance regardless of whether the state pursues recovery of such funds. Federal rules require states to recover improper child care payments that occur as the result of fraud. However, if the improper payment was not the result of fraud, as in cases of administrative error, federal rules give states discretion as to whether or not to recover misspent funds. Recovered funds may be used for activities specified in approved state plans, provided funds are recovered within the applicable obligation period. If, however, funds are not recovered until after the end of the applicable obligation period, recoveries must be returned to the federal government.¹⁸

State Match Requirements

Section 418 of the Social Security Act requires that states meet specific matching requirements in order to draw down a portion of their mandatory CCDF funds. Since FY1999, nine states have failed to draw down their full allotment of federal CCDF matching funds in at least one year. Seeking to provide states with increased flexibility in making expenditures that count toward state match requirements, HHS published a final rule that revised previous CCDF regulations, effective October 1, 2007. Specifically, the final rule amended state match regulations with respect to use of privately donated funds and public pre-kindergarten expenditures.

Prior to the new rule, CCDF regulations specified that privately donated funds would only qualify as state match for CCDF if those funds were transferred to (or under the control of) the state's lead agency or a *single* entity designated by the state to receive donated funds. The new rule amended previous regulations to permit states to designate multiple public and/or private entities as eligible to receive donated funds. However, the rule requires that donated funds be certified by both (1) the state's lead agency for CCDF and (2) either the donor or the entity designated by the state to receive privately donated funds, as appropriate. In addition, the final rule maintains previous requirements related to private donations, which specify that such funds (1) must be donated without any restriction that would require their use for a specific individual, organization, facility, or institution; (2) may not revert to the donor's facility or use; (3) may not be used to match other federal funds; and (4) shall be subject to audit.

¹⁶ This is the actual amount of CCDF improper authorizations identified in the sample review. If you apply the estimated error rate of 11.9% to the total amount outlaid by the CCDF in FY2008 (\$5.245 billion), it would suggest that approximately \$624 million may have been improperly authorized in that year. For more information, see the FY2009 Agency Financial Report, available online at <http://www.hhs.gov/afr/2009sectiii-oai.pdf>.

¹⁷ HHS regulations specify, however, that extrapolations of estimated improper payments derived from random sampling of total cases are not subject to disallowance.

¹⁸ For more information on CCDF obligation and expenditure rules, see CRS Report RL31274, *Child Care: Funding and Spending under Federal Block Grants*, by Melinda Gish.

The final rule also increased the amount of public pre-kindergarten expenditures that may be used as state match for CCDF. Previous regulations allowed that no more than 20% of a state's match requirement be fulfilled by public pre-kindergarten expenditures. Under the final rule, up to 30% of a state's CCDF match may come from public pre-kindergarten expenditures.

Data Collection

Federal law specifies a set of data reporting requirements for states in the administration of their CCDF programs. States must submit disaggregated data on children and families receiving assistance to HHS every quarter, and aggregated data twice a year. The law further requires the Secretary to submit a report to Congress once every two years. The most recent available published report to Congress is for both FY2004 and FY2005.¹⁹ However, select program data and statistics from more recent years, including preliminary data from FY2008, are available on the HHS website.²⁰

Specifically, the law requires states to collect the following information on each family unit receiving assistance, to be included in quarterly reports: family income; county of residence; gender, race, and age of children receiving assistance; whether the family includes only one parent; sources of family income, separately identified and including amounts; number of months the family has received benefits; the type of child care received; whether the child care provider was a relative; the cost of child care; and the average hours per week of care.

Aggregate data to be reported every six months include the number of child care providers that receive funding under this program, separately identified by type; the monthly cost of child care services, and the portion that is subsidized by this program, identified by type of care; the number of payments made by the state through vouchers, contracts, cash, and disregards under public benefit programs, identified by type of child care provided; the manner in which consumer education information was provided and the number of parents to whom it was provided; and the total unduplicated number of children and families served by the program.

Religious Providers

Under the CCDBG Act, religious providers may receive assistance on the same basis as nonsectarian providers. However, religious providers may use funds for construction assistance, which is generally prohibited for other providers, to the extent such efforts are deemed necessary to bring facilities into compliance with health and safety requirements. Use of funds for religious activities, including sectarian worship or instruction, is generally prohibited under the CCDBG Act. However, this prohibition does not apply to funds received by child care providers in the form of child care certificates, if such sectarian child care services are freely chosen by the parent.

Child care providers that receive CCDF funding may not discriminate in their admissions policy against a child on the basis of religion, with the exceptions of family child care providers (i.e., individuals who are the sole caregiver for children in a private home) or providers who receive

¹⁹ Annual reports to Congress are available at <http://www.acf.hhs.gov/programs/ccb/ccdf/rtc/index.htm>.

²⁰ Select program data and statistics are available at <http://www.acf.hhs.gov/programs/ccb/data/index.htm>.

assistance through child care certificates. However, sectarian providers may reserve unsubsidized slots for children whose families regularly participate in their organization's activities, unless 80% or more of their operating budget comes from federal or state funds, including child care certificates.

In their employment practices, child care providers receiving assistance under the act may not discriminate on the basis of religion if the employee's primary responsibility is working directly with children in the delivery of child care services. However, in considering two or more qualified candidates, sectarian providers may select an individual who regularly participates in their organization's activities. In addition, sectarian organizations may require employees to adhere to their religious tenets or teachings and to rules forbidding the use of drugs or alcohol, unless 80% or more of their operating budget comes from federal or state funds, including child care certificates.

The welfare reform law of 1996 (P.L. 104-193) included a section on services provided by charitable, religious or private organizations under the TANF program.²¹ This provision also applies to child care services funded under TANF. The provision, commonly referred to as "charitable choice," is intended to allow states to provide services through charitable and religious organizations, without impairing the religious character of these organizations or the religious freedom of individuals who participate in the programs.

Indian Tribes and Tribal Organizations

The Secretary is required by law to reserve between 1% and 2% of all child care funds (both discretionary and mandatory), for payments to Indian tribes and tribal organizations. The Secretary is required to allocate among other tribes and organizations any funds that an Indian tribe or tribal organization does not use in a manner consistent with the statute.

Indian tribes and tribal organizations are required to submit applications to receive these reserved funds. Applications must show that the organization seeking funds will coordinate with the lead agency in the state, that activities will benefit Indian children on reservations, and that reports and audits will be prepared. The Secretary, in consultation with the tribes and tribal organizations, will develop minimum child care standards that reflect tribal needs and available resources that will apply in lieu of licensing and regulatory requirements otherwise applicable under state or local law.

Notably, while the CCDBG Act generally prohibits use of funds for construction or renovation of facilities, the law does allow Indian tribes and tribal organizations to submit a request to the Secretary to use funds for these purposes. The Secretary may approve the request after a determination that adequate facilities are not otherwise available and that the lack of such facilities will inhibit the operation of child care programs in the future. The Secretary may not approve the request if it will reduce the level of child care services provided from the level provided by the tribe or organization in the previous year.

²¹ For a discussion of this provision, see CRS Report RL32736, *Charitable Choice Rules and Faith-Based Organizations*, by Joe Richardson.

Additional Reading

CRS Report RL31274, *Child Care: Funding and Spending under Federal Block Grants*, by Melinda Gish.

CRS Report RL32817, *Child Care Issues in the 109th Congress*, by Melinda Gish.

CRS Report RL32241, *Child Care Reauthorization: A Side-by-Side Comparison of Child Care Provisions in H.R. 4, S. 880 (108th Congress), and Current Law*, by Melinda Gish.

CRS Report RS22369, *TANF, Child Care, Marriage Promotion, and Responsible Fatherhood Provisions in the Deficit Reduction Act of 2005 (P.L. 109-171)*, by Gene Falk.

CRS Report RL33418, *Welfare Reauthorization in the 109th Congress: An Overview*, by Gene Falk, Melinda Gish, and Carmen Solomon-Fears.

U.S. General Accounting Office. *Child Care: States Exercise Flexibility in Setting Reimbursement Rates and Providing Access for Low-Income Children*. GAO-02-894, September 2002.

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