First Children's Finance

February 3, 2026

Robert F. Kennedy, Jr., Secretary
U.S. Department of Health and Human Services

RE: Docket No. ACF-2025-24272 / RIN 0970-AD20

Restoring Flexibility in the Child Care and Development Fund (CCDF)

Dear Secretary Kennedy,

First Children's Finance (FCF) appreciates the opportunity to submit comments on the proposed rule, *Restoring Flexibility in the Child Care and Development Fund (CCDF).* FCF is a national nonprofit organization with more than 30 years of experience working directly with child care business owners, communities, and state agencies that administer CCDF to strengthen the supply and long-term sustainability of child care as essential economic infrastructure.

Purpose of the 2024 Rule

The 2024 CCDF final rule—*Improving Child Care Access, Affordability, and Stability*—was adopted to address persistent, well-documented challenges in the child care sector: an affordability crisis for families, unstable and delayed payments to child care businesses, and insufficient supply that limits family choice and workforce participation. These challenges are structural, longstanding, and ongoing.

The provisions included in the 2024 rule were grounded in extensive data, research, and feedback from child care small business owners and parents. They were designed to:

- Increase program participation so parents can work and pursue education;
- Expand family choice by strengthening child care supply; and
- Improve program integrity through payment practices aligned with real-world operations.

By contrast, the proposed rule does not identify documented failures of the existing standards or demonstrate how rescinding the 2024 provisions would improve program performance. The CCDF program already affords states substantial flexibility in design and implementation.

Rolling back the 2024 provisions would weaken the program, undermine its statutory purpose, and reverse progress toward a more stable child care market.

At a time when families face rising costs for housing, health care, food, and other basic needs—and when child care remains out of reach for many—reducing stability in the child care sector will increase pressure on both small businesses and families. The proposed changes would disproportionately affect smaller child care businesses operating on thin margins and would likely translate into fewer options and higher costs for working and middle-class families.

FCF's Experience Working with Child Care Businesses

FCF has supported 10,000+ child care businesses, hundreds of communities and partnered with 25+ state and Tribal agencies administering CCDF across the country. Through integrated financing, business advisory services, and technical assistance, FCF has supported the creation or preservation of tens of thousands of child care slots nationwide.

Most child care businesses, including the ones we support, operate at limited scale and with minimal financial margin. Payment timing, enrollment stability, and predictable revenue are often decisive factors in whether a child care business remains open, especially in small and rural communities. This experience directly informs FCF's perspective on CCDF policy and its effects on business viability, child care supply, workforce participation, and family choice.

This comment is intended to focus specifically on child care as a small-business sector and on how CCDF payment policy affects the ability of child care business owners to operate sustainably while serving parents who access the program to participate in the workforce or pursue education.

Persistent Supply Constraints Undermine Family Choice

The United States continues to face a serious shortage of child care. National estimates indicate that approximately 14.8 million children need child care, compared to roughly 10.8 million licensed slots, with the gap wider in rural areas.

Supply shortages are particularly acute for:

- Infants and toddlers;
- Children with disabilities; and
- Families in need of non-traditional-hour care.

These shortages directly limit family choice. When supply is constrained, families make decisions based on availability rather than preference or fit. Strengthening supply is therefore a prerequisite for meaningful parent choice.

Child Care Is a Small-Business Sector with Fixed Costs

The vast majority of child care businesses are small, independently owned enterprises. Like other small service-based businesses, child care business owners must cover:

- Staffing costs that do not fluctuate day to day;
- Facility expenses such as rent or mortgage, insurance, utilities, and maintenance;
- Licensing, inspection, and regulatory compliance costs; and
- Ongoing operational expenses required to keep capacity available.

These costs remain largely constant regardless of daily attendance. This structure is especially challenging in rural and thin markets, where businesses cannot easily replace lost enrollment or absorb revenue volatility. Payment policies that introduce uncertainty therefore have an outsized impact on business viability and supply.

Payment Policy Should Align with How Small Businesses Providing Publicly Supported Services Are Treated

Across sectors where private businesses deliver essential services with public funding, payment systems are designed to mitigate volatility and support capacity.
For example:

- **Housing providers** receiving housing vouchers are paid based on lease agreements, not nightly occupancy.
- **Health care providers** often receive prospective or contracted payments that account for fixed costs in addition to reimbursement for services.
- **Workforce training providers** receive contract-based or enrollment-based payments to ensure capacity is available when participants need services.
- **Public and private schools** are funded based on enrollment or formulas, not daily attendance.

These systems recognize that the service being purchased is **capacity**, not a series of isolated transactions. Child care businesses operate the same way: they reserve slots, staff for them, and incur costs to ensure care is available when families need it.

Enrollment-Based and Prospective Payment Reflect Generally Accepted Business Practice

In the private child care market, families commonly pay weekly, bi-weekly, or monthly in advance. National survey data indicate that a strong majority of child care business owners require prospective payment when parents pay out of pocket private tuition rates.

Prospective payment is essential because business owners must pay staff, utilities, insurance, food, and other expenses before care is delivered. Slow or retroactive reimbursement has led some businesses to limit the number of subsidized families they serve or to opt out of the system entirely, especially because child care businesses are typically small with limited reserves.

Enrollment-Based Payment Supports Stability and Program Integrity

Enrollment-based payment recognizes that business costs do not decline when a child is absent. Survey data shows that a substantial majority of child care business owners would be more likely to serve families using subsidies if paid by enrollment rather than attendance.

Importantly, the 2024 rule preserves program integrity by allowing states to:

- Require attendance records;
- Monitor utilization; and
- Discontinue assistance for excessive unexplained absences after reasonable attempts to engage families.

Enrollment-based payment and accountability are not mutually exclusive.

States have made measurable progress toward adopting these practices. For example:

- 23 states and the District of Columbia now pay child care businesses based on authorized enrollment rather than daily attendance, including Kansas, North Dakota, Texas, and Mississippi.
- 6 states pay for child care businesses prospectively, including North Dakota, Kansas, and Utah.

These examples demonstrate that the 2024 rule's requirements are practical and already being implemented.

Grants and Contracts Strengthen Supply and Expand Choice

Vouchers are a demand-side tool. They can support choice in markets with sufficient supply, but in constrained markets they place financial risk on individual business owners.

Grants and contracts function as supply-side tools. When used to support reserved capacity or ongoing service delivery, they provide predictable funding that allows business owners to:

- Cover fixed costs;
- Maintain staffing; and
- Plan operations with confidence.

These tools are particularly important for stabilizing and expanding care for infants and toddlers, children with disabilities, families needing non-traditional-hour care, and rural communities. By reducing uncertainty, grants and contracts enable more businesses to participate in the subsidy system.

In short, vouchers without sufficient supply do not create real choice. Contracts and grants strengthen supply, which is the prerequisite for meaningful family choice.

The 7 Percent Co-Payment Cap Supports Small Business Stability

From a small business perspective, family co-payment policy affects not only affordability for families, but also payment reliability, collections risk, and cash-flow stability for child care businesses. When family co-payments are high or uncapped, missed or partial payments increase, unpaid balances accumulate, and business owners are forced to absorb losses or spend unpaid time on billing and follow-up. Most child care small businesses lack back-office capacity to manage collections and have little ability to absorb bad debt. A reasonable co-payment cap improves predictability, reduces accounts receivable risk, and lowers administrative burden—factors that materially affect business sustainability, particularly for family child care homes and small centers.

The stabilizing effect of a co-payment cap is strongest when paired with timely and reliable state subsidy payments. When states pay consistently, child care businesses are less dependent on high or unpredictable family payments to meet fixed expenses, and monthly revenue becomes more predictable. This allows business owners to budget for payroll and facilities costs and make staffing decisions based on enrollment rather than short-term cash-flow uncertainty. This predictability is especially important for family child care businesses and small rural centers operating with limited reserves. Removing affordability guardrails such as the 7 percent co-payment cap increases volatility and collections risk, weakening supply and ultimately limiting family choice.

29 states and the District of Columbia cap family co-payments at no more than 7 percent of income, including Tennessee, Oklahoma, and North Dakota.

A Balanced Market Approach Supports Families and Small Businesses

Vouchers and contracts serve complementary roles. Vouchers operate on the demand side; contracts and grants operate on the supply side.

In child care markets characterized by high fixed costs and limited supply, relying exclusively on demand-side tools can unintentionally reinforce scarcity. A balanced approach—using vouchers alongside grants and contracts—supports both business sustainability and family choice.

Conclusion and Request

Child care businesses are small businesses providing essential infrastructure for our workforce and economy. CCDF policy should recognize this reality and align payment structures accordingly. The 2024 CCDF provisions addressed real, documented challenges in the child care sector. Rolling them back will weaken the system, reduce supply, and limit family choice at a time when families and communities can least afford it.

First Children's Finance respectfully urges the Administration for Children and Families to **preserve the 2024 CCDF final rule and withdraw the proposed rule – Restoring Flexibility in the Child Care and Development Fund (CCDF).**

Thank you for the opportunity to comment and for your consideration of these perspectives.
Sincerely,

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Chief Program Officer

On behalf of First Children's Finance
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