



## Office of Children and Family Services

ANDREW M. CUOMO  
Governor

SHEILA J. POOLE  
Acting Commissioner

September 8, 2016

Rachel Schumacher  
Director, Office of Child Care  
U.S. Department of Health and Human Services  
Administration for Children and Families  
Mary E. Switzer Building  
330 C Street, SW  
Washington, DC 20201

Dear Ms. Schumacher:

The New York State Office of Children and Family Services (OCFS) is the Lead Agency for the administration of the Child Care and Development Fund (CCDF) in New York State, and is therefore responsible for implementation of the new requirements that are contained within the Child Care and Development Block Grant (CCDBG) Act of 2014.

As I indicated to you earlier this year when we submitted our New York State CCDF plan for federal fiscal years 2016-18, although we have made significant progress in many of the areas specified in the CCDBG Act, there are other areas for which implementation is dependent upon amendments to New York State law and regulation. Successfully moving legislative and regulatory changes are time-consuming processes that we cannot launch until the federal administration enacts final rules for the CCDF. Thus, while we continue to move forward in setting the stage for implementation, you will see in the revised implementation timelines submitted in the ACF-118 system that some of our activities are frozen in place as we await the final CCDF rules.

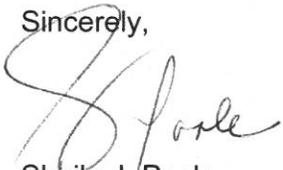
OCFS acknowledges the need to submit a Corrective Action Plan for implementation of the health and safety training provision (5.1.6.b) as outlined in your CCDF plan approval letter of June 15, 2016. As required, specification of tasks needed to achieve implementation is included in a revised implementation timeline which, because of barriers to accessing the web-based ACF-118 system, is enclosed here.

In addition, OCFS requests a waiver to implement the provisions to improve access to child care for homeless families and children outlined as a plan of action in section 3.2.2 of New York State's CCDF plan. OCFS will not be able to complete all of the activities by September 30, 2016 and implement them by October 1, 2016. OCFS has been able to put into place the activity outlined in its plan of action requiring child care resource and referral agencies (CCR&Rs) to provide outreach services in homeless shelters and other emergency dwellings, in order to help homeless families access child care. Performance-based contracts with the CCR&Rs were finalized to include this activity as one of their core function milestones effective October 1, 2016.

While OCFS initially published proposed regulations to improve access to child care, albeit several weeks later than in the proposed timeline in the state CCDF plan, OCFS requires an extension to the original timeframe to finalize these regulations. This additional time enables OCFS to develop an improved approach to serve the new population of homeless families defined in the McKinney-Vento Act. All executive agencies need to carefully assess the response to the public comments received in the initial regulatory proposal and to revise and finalize the regulatory package according to the proscribed state regulatory change process. In addition, because New York State has a state-supervised, locally administered child care subsidy program, each social services district will need time, once the regulations are finalized, to amend its county plan, include a local public comment period, and implement the revised regulations once adopted. Therefore, OCFS requests to revise the completion date for the timeline to implement the proposed provisions to improve access to child care for homeless families to February 1, 2017. A revised timeline is also enclosed.

Thank you for your consideration. Please let us know if you have any questions or need further elaboration of any of the information contained herein. We look forward to your response.

Sincerely,



Sheila J. Poole  
Acting Commissioner

cc: Magdamari Marcano, Regional Program Manager

5.1.6 The CCDBG Act of 2014 added a new provision specifying that States and Territories must 1) establish health and safety requirements for providers serving children receiving CCDF assistance relating to matters included in the topics listed below, and 2) have pre-service or orientation training requirements, appropriate to the provider setting, that address these health and safety topics. (658E(c)(2)(I)(i)) This requirement is applicable to all child care providers receiving CCDF regardless of licensing status (licensed or legally-exempt). The only exception to this requirement is for providers who are caring for their own relatives, as States have the option of exempting relatives from some or all CCDF health and safety requirements. When establishing these requirements, States are encouraged to consider the age of children and type of child care setting to ensure that they are appropriate to the health and safety needs of the children from birth through age 12 and the providers who care for them.

a) The State/Territory certifies that it has health and safety requirements for providers receiving CCDF in the following areas:

- Prevention and control of infectious diseases (including immunization)
- Prevention of sudden infant death syndrome and use of safe sleeping practices
- Administration of medication, consistent with standards for parental consent
- Prevention of and response to emergencies due to food and allergic reactions
- Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic
- Prevention of shaken baby syndrome and abusive head trauma
- Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602(a) (1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a(a)(1))
- Handling and storage of hazardous materials and the appropriate disposal of bio contaminants
- Precautions in transporting children (if applicable)
- First aid and cardiopulmonary resuscitation (CPR) certification

Yes. The State/Territory certifies that it has health and safety requirements for CCDF providers in these areas as of March 1, 2016. Provide a citation and a link if available



No. If no, the State/Territory must provide a State/Territory-specific implementation plan for achieving compliance with this requirement, including planned activities, necessary legislative or regulatory steps to complete, and target completion date (no later than September 30, 2017). Please provide brief text responses and descriptions only. Do not cut and paste charts or tables here. Your responses will be consolidated electronically into an Implementation Plan summary report.

- Overall Target Completion Date (no later than September 30, 2017) September 30, 2017
- Overall Status – Describe the State/Territory’s status toward complete implementation for any requirement(s) not fully implemented (not yet started, partially implemented, substantially implemented, other) partially implemented
  - Implementation requirement(s) – Identify any requirement(s) implemented to date if applicable A substantially implemented area is that our statutes and regulations establish health and safety standards for all staff, household members, and volunteers in licensed and registered care. Inspections are performed in licensed and registered programs to assess health and safety issues at initial licensure/registration and continuously throughout the licensing/registration period with a goal of at least quarterly inspections. All child day care providers who administer medications are required to successfully complete Medication Administration Training. Every licensed/registered program must have at least one staff member present who is CPR and First Aid certified for the ages of the children in care. Programs that do not meet health and safety requirements are subject to enforcement action that includes fines, limitation, revocation, denial, or suspension of the registration/license. OCFS also has in place health and safety regulations for license-exempt child care providers enrolled to provide child care subsidized under CCDF. OCFS is drafting language to modify current [statute and] regulation to better reflect CCDBG requirements.
  - Unmet requirement - Identify the requirement(s) not fully implemented: Incorporation of CCDBG health and safety standards into NYS standards.

Tasks/Activities – What specific steps will you take to implement the requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

- In order to implement by September 30, 2017, emergency regulations will need to be promulgated that will require regulated and enrolled license-exempt providers to complete training in the CCDBG health and safety topic areas. Longer term, statutory changes will be needed to modify existing health and safety requirements for both regulated and enrolled license-exempt child care programs and to mandate training for license-exempt child care providers. Short-term, OCFS is drafting language to modify state regulations to better reflect the CCDBG requirements.
  - Projected start date for each activity: October 2016
  - Projected end date for each activity: December 2016

- Agency – Who is responsible for complete implementation of this activity: NYS Office of Children and Family Services
- Partners – Who is the responsible agency partnering with to complete implementation of this activity: None

b) The State/Territory certifies that it has pre-service (prior to initial service) or orientation (period from when service started) and ongoing training requirements, appropriate to the provider setting that address each of the requirements relating to the topic areas listed above. ACF expects these trainings will be part of a broader systematic approach and progression of professional development (as described in Section 6) within a State/Territory that will result in opportunities for child care providers to accumulate knowledge, competencies and credits toward eventual completion of a professional certification or higher education. The law does not specify a specific number of training or education hours but States and Territories are encouraged to consult with *Caring for our Children Basics* for best practices and recommended time needed to address these training requirements.

Yes. The State/Territory certifies that it has pre-service or orientation and ongoing training requirements appropriate to the provider setting that address each of the requirements relating to the topics listed above as of March 1, 2016. Describe, including at a minimum 1) how the state/territory defines preservice or orientation period, 2) the minimum number of annual preservice or orientation hours required to meet these health, and safety requirements, and 3) ongoing training or education hours required to meet these health and safety requirements

No. If no, the State/Territory must provide a State/Territory-specific implementation plan for achieving compliance with this requirement, including planned activities, necessary legislative or regulatory steps to complete, and target completion date (no later than September 30, 2017). Please provide brief text responses and descriptions only. Do not cut and paste charts or tables here. Your responses will be consolidated electronically into an Implementation Plan summary report.

- Overall Target Completion Date (no later than September 30, 2016): September 30, 2017
- Overall Status – Describe the State/Territory’s status toward complete implementation for any requirement(s) not fully implemented (not yet started, partially implemented, substantially implemented, other) partially implemented
  - Implementation requirement(s) – Identify any requirement(s) implemented to date if applicable Currently, licensed/registered child

day care providers must complete 30 hours of training every two years with 15 of those hours occurring within the first six months of employment. This training must address nine topics mandated by New York State statute; many of these topics overlap with one or more of the 11 topics required by CCDBG. Home-based providers are currently required to take health and safety pre-service training before they are issued a license. This training overlaps with approximately 8 of the 11 CCDBG topics; it will be updated to reflect the 11 topic areas. OCFS is working with our training contractor to develop several health and safety training products that cover all 11 CCDBG topics. These will be available to all child day care providers, including enrolled legally-exempt providers, with completion done pre-service or during an orientation period. The training will be available both online and in a classroom setting. This will ensure that there are multiple opportunities and methods for meeting this requirement. To increase the availability of trainings on the 11 topic areas, and to address the requirement of progressive learning, OCFS will take several steps. This includes approving training organizations rather than individual trainings. The approved organization system will increase the variety of topics and levels of training. OCFS is also developing “on-demand” training curricula on a variety of topics to address the requirement about a progression of training. These “on-demand” trainings will be based on our award-winning webcast trainings and conducted by directors of day care centers, school-age programs for their staff. In addition, OCFS currently provides scholarships to income-eligible providers with higher scholarship amounts for CDA courses/fees, and college courses. License-exempt providers are not currently required by NYS regulation to take training. However training curricula have been developed and are available for license-exempt providers who elect to administer medication or who seek an enhanced rate of pay.

- Unmet requirement - Identify the requirement(s) to be implemented The health and safety preservice/orientation is not currently required by state regulation or statute for anyone other than home-based child day care providers.
- Tasks/Activities – What specific steps will you take to implement the requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.) OCFS will direct child day care providers to complete training that covers the 11 CCDBG topics by utilizing a combination of current federally approved trainings (like Better Kid Care) and existing trainings developed for New York State providers. OCFS will work with our training contractor, SUNY Professional Development Program, to develop a system to approve training organizations. OCFS also will work with our training contractor to develop additional training products that cover the 11 topics for both licensed/registered and legally-exempt providers. Existing health and

safety training mandated by OCFS for home-based providers will be modified to ensure it covers all 11 federal topic areas.

- Projected start date for each activity Most of the above mentioned activities already have begun.

Direct providers to complete training that covers the 11 topic areas: December 2016.

Create system to approve training organizations: October 2016.

Develop additional trainings that cover the 11 topic areas: began in July 2016.

Modify existing mandated health and safety training for home-based providers: June 2017.

Modify the health and safety training for license-exempt child care providers: began in January 2016.

- Projected end date for each activity

Providers will be trained in the 11 topic areas: September 30, 2017.

Training organizations approval will begin in January 2017 and continue on an on-going basis.

Additional trainings that cover the 11 topic areas will be completed: December 2016 and April 2017.

Updated health and safety orientation training for home-based providers will be completed: September 2017.

Modifying the health and safety training for license-exempt child care providers will be completed: September 2017.

- Agency – Who is responsible for complete implementation of this activity NYS Office of Children and Family Services
- Partners – Who is the responsible agency partnering with to complete implementation of this activity SUNY Professional Development Program, CCR&Rs, unions representing child care providers, approved training organizations, provider associations including the Family Child Care Association of New York State and New York State Association for the Education of Young Children.

### 3.2.2 Improving Access for Homeless Children and Families

#### Implementation Plan Timeline:

##### ○ Status Update:

- February 2016: Began work on regulatory change
- February 2016: Began work to develop training material utilizing our existing training contract with the State University of New York, Professional Development Program and working with the New York State Education Department
- March 2016: Outreach to the New York State Office of Temporary and Disability Assistance
- May 31, 2016: Submitted proposed regulations to the Department of State for publication in the *New York State Register*
- June 15, 2016: Proposed regulations published in the *New York State Register*
- June, 2016: Broadened the scope of one of the milestones of our performance-based contracts with the CCR&Rs to allow them to do targeted outreach to homeless shelters and other emergency dwellings to help families' access child care. The contract is effective October 1, 2016
- July 30, 2016: End of 45-day public comment period; assessing public comment

##### ○ Projected Start date for each unmet requirement

- November 22, 2016: Submit revised regulations, as necessary, to the Department of State for publication in the *New York State Register*
- December 7, 2016: Revised regulations published in the *New York State Register*
- August-December: Implement system changes in order to give priority to children who are homeless
- January 6, 2017: End of 30-day public comment period; assess public comment, as applicable
- January 17, 2017: Submit notice of adoption to the *New York State Register* to be included in the February 1, 2017 issue
- Projected end date for each activity February 1, 2017.