

ACF

Administration for Children and Families

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration on Children, Youth and Families

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To	Lead Agencies administering child care programs under the Child Care and Development Block Grant (CCDBG) Act of 1990 as amended, and other interested parties.
Subject	Clarification of Interpretation of "Federal Public Benefit" Regarding Child Care and Development Fund (CCDF) Services.
References	Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, P.L. 104-193, as amended; Federal Register notices 62 FR 61344 (November 17, 1997), 63 FR 41658 (August 4, 1998), and 63 FR 41662 (August 4, 1998).
Background	<p>Except for eligibility determinations made by non-profit charitable organizations discussed below, Title IV also requires providers of "Federal public benefits" to verify the immigration and citizenship status of all applicants.</p> <p>On September 23, 1998, we sent all CCDF Lead Agencies a letter about the August 4, 1998, Federal Register notice that listed the Child Care and Development Fund among the programs administered by the Department of HHS that are subject to the verification requirements applicable to programs offering "Federal public benefits." In that letter we said that we were considering how the "Federal public benefits" requirements related to the CCDF. After further research, we are offering the following additional guidance.</p>
Who in the Family Must be Verified?	<p>Policy: <i>For implementing the verification requirements mandated by title IV of PRWORA, only the citizenship and immigration status of the child, who is the primary beneficiary of the child care benefit, is relevant for eligibility purposes.</i></p> <p>Comment: See <u>Ruiz v. Blum</u>, 549 F. Supp. 871 (S.D.N.Y. 1982) (interpreting a similar alien verification requirement for a child care program).</p> <p>The eligibility requirements of the CCDF, its regulations, and the Lead Agency's CCDF Plan continue to apply.</p>
Which Providers of CCDF Services Must Verify Applicants' Eligibility Status?	<p>Policy: <i>Under title IV of PRWORA, providers that are non-profit charitable organizations are not required to determine, verify, or otherwise require proof of eligibility of any applicant for benefits. Providers that are not non-profit charitable organizations must verify the applicants' eligibility status.</i></p> <p>Comment: This exemption does not apply where eligibility for CCDF services is determined by a governmental entity. It does apply if eligibility for CCDF services is determined by a non-profit charitable organization. The Department of Justice's Proposed Rule on Verification for Public Benefits defines a non-profit charitable organization as: "an organization that is organized and operated (1) for purposes other than making gains or profits for the organization, its members or shareholders, and is precluded from distributing any gains or profits to its members or shareholders; and (2)</p>

for charitable purposes, including relief of the poor and distressed or the underprivileged, advancement of religion, or advancement of education."

Must the Status of Children Benefiting from CCDF Services that are Subject to Head Start Standards be Verified?

Policy: *The verification requirements mandated by Title IV of PRWORA do not apply when a child receives Head Start services that are supported by CCDF funds and are subject to the Head Start Performance Standards.*

Comment: Head Start and Early Head Start have been determined not to provide "Federal public benefits" because non-post secondary education benefits were expressly omitted from the statutory definition in title IV of PRWORA. Therefore, Head Start providers are not required to implement PRWORA's verification requirements.

The policy stated above applies when services are subject to the Head Start Performance Standards and are supported by combined Head Start/CCDF funding, or are provided by service arrangements with child care agencies, or when an agency that operates a Head Start program also provides a separate program for children that is entirely supported by CCDF funds.

Must the Status of Children Benefiting from CCDF Services that are Subject to Public Educational Standards be Verified?

Policy: *When child care settings that are subject to public educational standards are used to deliver CCDF-subsidized services, then the verification requirements of PRWORA title IV would not apply, because the children would be receiving non-postsecondary educational benefits that would not meet the statutory definition of "Federal public benefits".*

Comment: The types of settings that may be used for CCDF subsidized care include public and private pre-Kindergarten (pre-K) settings and public and private child care for out-of-school time (before and after school, school holidays, summer).

CCDF rules, however, prohibit expenditure of CCDF funds for students enrolled in grades 1 through 12 for: 1) Any service provided to such students during the regular school day; 2) Any service for which such students receive academic credit, and 3) Any instructional services that supplant or duplicate the academic program of any public or private school.

Effective Date

This Program Instruction is effective upon issuance. Benefit-granting agencies providing "Federal public benefits" should use the procedures described in the Interim Guidance published by the Department of Justice on November 17, 1997 (62 FR 61344) to verify status prior to issuance of final regulations. The Department of Justice currently is considering comments received in response to its proposed verification rule published on August 4, 1998 (63 FR 41662) and will be publishing a final rule. State verification procedures in compliance with the Department of Justice rule must be in place within two years of the issuance of the final rule.

Inquiries

Inquiries should be directed to the appropriate Administration for Children and Families Regional Administrator.

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