

Chapter 9 – Child Care

Legislative History

The federal government entered the child care business during the 1930s when federally-funded nursery schools were established for poor children. The motivation for creating these nursery schools was not specifically to provide child care for working families. Rather, the schools were designed primarily to create jobs for unemployed teachers, nurses, and others, and also to provide a wholesome environment for children in poverty. When mothers began to enter the work force in large numbers during World War II, many of these nursery schools were continued and expanded. Federal funding for child care and other community facilities was available during the war years under the Lanham Act, which financed child care for an estimated 550,000-600,000 children before it was terminated in 1946.

The end of the war brought the expectation that mothers would return home to care for their children. However, many women chose to remain at work and labor force participation of mothers continued to rise. In 1954, Congress enacted a comprehensive revision of the Internal Revenue Code, establishing a statutory tax deduction for child and dependent care expenses. (In 1976, the deduction was replaced with a tax credit known as the Child and Dependent Care Tax Credit.) The appropriate federal role in supporting child care through grants, particularly for poor families, was a topic of debate at least as early as the 1960s, when Congress authorized a limited use of funds to subsidize the child care costs of welfare recipients.

Concerns that child care may be in short supply, not of high enough quality, or too expensive for many families escalated during the late 1980s into a national debate over the nature and extent of the nation's child care problems and what, if any, federal interventions would be appropriate. The debate centered on questions about the type of federal subsidies that should be made available and for whom, whether the federal government should set national child care standards, conditions under which religious child care providers could receive Federal funds, and how best to assure optimal choice for parents in selecting child care arrangements for their children, including options that would allow a mother to stay home. Differences stemming from philosophical and partisan views, as well as jurisdictional concerns, were reflected throughout the debate.

The debate culminated in the enactment of legislation in 1990 that expanded federal support for child care by establishing two new child care grant programs to states. The programs—the Child Care and Development Block Grant (CCDBG) and the At-Risk Child Care Program—were enacted as part of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508). These programs were preceded by enactment of a major welfare reform initiative, the Family Support Act of 1988 (Public Law 100-485), which authorized expanded child care assistance for welfare families and families leaving welfare. The combined effect of the 1988-1990 legislation was the creation of four programs to support child care, of which three were associated with the cash welfare system. Families on welfare (then Aid to Families with Dependent Children, or AFDC)

were entitled to free child care. Families who left the AFDC rolls for employment were entitled to 12 months of “transitional” subsidized child care. The third AFDC program targeted families who would be “at-risk” of dependence on AFDC in the absence of subsidized child care. These three programs were all funded with mandatory money and fell under the same congressional committee jurisdiction (the House Ways and Means and Senate Finance Committees). However, they operated under separate rules and targeted three separate populations. The fourth program was the Child Care and Development Block Grant (CCDBG), which supported child care for low-income families not connected with the AFDC cash welfare system. The block grant subsidized child care for families with incomes up to 75% of state median income, and also provided funds for activities to improve the overall quality and supply of child care. Unlike the three AFDC-related programs, the block grant was funded with discretionary funds and was overseen by the committees now known as the House Committee on Education and the Workforce and the Senate Committee on Health, Education, Labor and Pensions (HELP).

The 1996 welfare reform law (Public Law 104-193) repealed AFDC and its related child care programs. Instead of preserving three separate child care programs, the 1996 law created a consolidated block of mandatory funding under section 418 of the Social Security Act. Like the earlier three programs, this consolidated block of child care funding was designed to be largely targeted toward families on, leaving, or at-risk of receiving welfare (now called Temporary Assistance for Needy Families, or TANF), although welfare families were no longer entitled to child care support.

To create a simpler and more unified child care system, the 1996 law directed that the new mandatory funding be transferred to each state’s lead agency managing the CCDBG and be spent in accordance with CCDBG rules. In addition to creating the mandatory child care funds, the 1996 law reauthorized and amended the CCDBG, expanding eligibility to 85% of state median income. Mandatory funding remained under House Ways and Means and Senate Finance Committee jurisdiction; discretionary funding in the CCDBG stayed under House Education and the Workforce Committee and Senate HELP Committee jurisdiction. In implementing the 1996 law, the Department of Health and Human Services (HHS) referred to the combined mandatory and discretionary funding as the Child Care and Development Fund (CCDF).

As a component of welfare reform, the 1996 child care provisions were intended to support the overall goal of promoting self-sufficiency through work. However, separate from the context of welfare reform, the legislation aimed to address concerns about the effectiveness and efficiency of child care programs. The four separate child care programs that were enacted in 1988 and 1990 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 the 1996 welfare law were intended to streamline the federal role, reduce the number of federal programs and conflicting rules, and increase the flexibility provided to states.

In the aftermath of the 1996 welfare reform law, discretionary child care funding continued to be provided through the annual appropriations process. However, the 1996 law authorized and directly appropriated (or pre-appropriated) mandatory child care funding for each of FY1997 through FY2002. Beginning in FY2003, a series of twelve temporary extensions provided mandatory child care funding into FY2006, when—following a four-year debate—Congress enacted the Deficit Reduction Act of 2005 (DRA, P.L. 109-171), extending TANF and mandatory child care funding through FY2010. The DRA increased mandatory child care funding by \$200 million per year (a total increase of \$1 billion over five years), resulting in a total of \$2.9 billion in mandatory funding for each of FY2006-FY2010.

Throughout welfare reauthorization discussions in 2002-2005, the funding level for child care was a major point of contention. Welfare caseloads had declined since 1996, thus “freeing up” funds previously used for cash assistance for other services such as child care. However, the decline in the welfare caseload had not translated into a decline in the larger low-income population that the CCDF was created to serve, regardless of welfare status. With respect to the welfare population, the welfare reauthorization debates of 2002-2005 also focused on the effect that proposed increases in required hours of work and other activities by welfare recipients would have on the need for child care. As the hours of work and other activities required of welfare recipients were increased, many argued that increased child care funding was even more essential. Child care remained an issue in the debate over how to move welfare recipients toward employment and self-sufficiency; mothers on welfare may have difficulty entering the labor force because of child care problems.

While the DRA reauthorized mandatory child care funding through FY2010, this law did not extend the authorization of discretionary appropriations for the CCDBG. However, Congress has continued to enact appropriations for the CCDBG each year since its expiration in 2002, providing roughly \$2.1 billion annually through FY2010. In addition to annual discretionary appropriations for FY2009, the CCDBG received \$2 billion in supplemental funds from the American Recovery and Reinvestment Act (ARRA), which was signed into law by President Obama on February 17, 2009 (P.L. 111-5). The ARRA specified that the \$2 billion in CCDBG funds should be used to supplement, not supplant, state general revenue spending on child care assistance for low-income families. The ARRA also specified 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 augmented the amount that states were 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 was reserved for activities designed to improve the quality of infant and toddler care.

CCDF funds appropriated in the ARRA were made available for obligation by HHS through the end of FY2010. However, HHS opted to provide states with their full allocations in FY2009, nearly doubling discretionary CCDF allotments to states for that

fiscal year. CCDF grantees were required to obligate, or commit, their ARRA funds by the end of FY2010 (September 30, 2010), but have until the end of FY2011 (September 30, 2011) to expend their ARRA awards. States have reported spending the majority of CCDF ARRA funding on direct services. For instance, states have used these funds to lower parental co-payments, increase payment rates to child care providers, expand income eligibility thresholds, and add or extend eligibility to parents searching for jobs. Some states have also reported using ARRA funds to avoid, shorten, or eliminate waiting lists for eligible children. In addition to spending on direct services, states have used ARRA funds to expand investments in quality activities. For instance, states have used ARRA funds to create or expand Quality Rating and Improvement Systems, support programs targeted to infants and toddlers, and improve state and local health and safety standards.

The authorization and pre-appropriations for mandatory child care funding were set to expire at the end of FY2010, but the Claims Resolution Act of 2010 (P.L. 111-291) provided a one-year extension (through September 30, 2011) of mandatory child care funding at the FY2010 level of \$2.917 billion. (Prior to the enactment of the Claims Resolution Act, Congress had provided two short-term extensions—enacted in P.L. 111-242 and P.L. 111-290—which provided mandatory child care funding for the first few months of FY2011.)

For FY2011, discretionary CCDBG funding was provided under a series of eight continuing resolutions (CRs), culminating with a final full-year CR that was enacted into law (P.L. 112-10) on April 15, 2011. When taking into account an across-the-board rescission of 0.2%, the final FY2011 CR provided \$2.223 billion in discretionary CCDBG funding for FY2011. This amount is nearly \$96 million more than the FY2010 funding level of \$2.127 billion. In a break from recent annual appropriations, the FY2011 CR eliminated CCDBG set-aside funding for the Child Care Aware toll-free hotline (typically funded at \$1 million annually), a phone line staffed by child care consumer education specialists, who respond to questions from parents and child care providers about the elements of quality child care and how to locate child care programs in local communities.