

## Smith, Ashleigh, ECECD

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**From:** [REDACTED]  
**Sent:** Saturday, September 11, 2021 10:03 AM  
**To:** ECECD-ECS-PublicComment  
**Subject:** [EXTERNAL] Comment on ECECD proposed amendments

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hello,

I would like to state the impact that the recent rule changes have had on my family.

[REDACTED] and initially I had no job or income and was living with my children in my mom's house after I separated. I got a job and was able to live on my own with my kids, but my income was still not enough to cover all my expenses, including legal fees for my divorce.

Over the past year, I have been able to save some money in a college savings account for my kids due to the fact that I didn't need to pay my son's daycare co-payment. I never dreamed that I would be able to set aside money for my kids' college when I could barely pay for everyday expenses. This last year has allowed us to look to the future, instead of [REDACTED]

I hope more families, especially single mothers, can have the same experience and that these policies are made permanent.

Thank you.

## Smith, Ashleigh, ECECD

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**From:** [REDACTED]  
**Sent:** Wednesday, September 29, 2021 7:36 AM  
**To:** ECECD-ECS-PublicComment  
**Subject:** [EXTERNAL] Provider rates

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

The increases that were given were a great help. We have many school age children and feel that those children should of also relieved an increase. That age group requires lots of time and materials, replaced due to use and breakage. I hope they look at this a bit closer. Thank you.

## Castillo, Alejandra, ECECD

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**From:** [REDACTED]  
**Sent:** Sunday, October 24, 2021 6:05 PM  
**To:** ECECD-ECS-PublicComment  
**Subject:** [EXTERNAL] 8.15.2 NMAC Public Comment  
**Attachments:** 8.15.2 Public Comments.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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TLC Development Centers has been serving low income New Mexican families for over 20 years. Currently we have 7 locations across 3 counties in New Mexico. In September of 2021, we served 371 children receiving child care assistance. Pre-COVID, our average was approximately 560 per month.

Historically, our centers collected roughly 40% of total family co-payments each month. This has always caused us to operate on a shoestring budget. This year, with co-payments being waived by the department, we're finally able to feel a little bit of financial 'breathing room'. We've issued extra bonuses to our teachers, increased hourly wages (above the minimum wage increases), provided tons of PPE for staff **and** children, and more. ***We thank you very much!***

Our primary concern is: *What will happen July 1, 2022?* The co-payments we're seeing on the contracts - though waived right now - are going to be even higher and more unaffordable when minimum wage goes up again. We fully understand the need to balance the budget - and certainly the desire to serve more families with limited funds. The cost/benefit analysis just seems a bit off balance from a co-payment standpoint.

Please accept our attached public comments in reference to NMAC 8.15.2.

Thank you.

***#Masks are the new normal***

***Building Bridges Child Development Center, Inc.  
Eastern Child Development Center, Inc.  
Parkside Child Development Center, Inc.***

Please accept the following comments on the proposed revisions for 8.15.2 NMAC:

**Affordability**

**8.15.2.13 B, 8.15.2.13 B (1), 8.15.2.13 B (2)**

The current co-payment methodology is not affordable for families. From the CCDF Final Rule:

*We establish a new **Federal benchmark for affordable family co-payments of seven percent of family income** and allow Lead Agencies more flexibility to waive co-payments for vulnerable families. (Federal Register / Vol. 81, No. 190 / Friday, September 30, 2016 / Rules and Regulations 67440)*

Currently, a single parent with 2 children will pay 10.36% of their gross income at 200% FPL. With 3 children, it jumps up to 12.21%. 13% for 4 children and 13.37% for 5 children. This is far above the federal benchmark of 7% and highlights the fact that the current co-payment methodology is **not** affordable for families.

The Child Care and Development Fund Plan for New Mexico for FFY 2022-24 *requires Lead Agencies to establish and periodically revise a sliding-fee scale for CCDF families that varies based on income and the size of the family to determine each family's contribution (i.e., co-payment) **that is not a barrier** to families receiving CCDF funds (658E(c)(5)). 3.2.2 Gives options for calculating the co-payments. The best of which is 3.2.2 b v – **The fee is a percent of income, and the fee is per family.*** Given that the CCDF Final Rule sets a 7% benchmark, it seems logical that this should be the standard for New Mexican families.

**Stricken Language: 8.15.2.13 E** The co-payment for a child shall not exceed the **base** monthly provider reimbursement rate. If this situation arises, the co-payment may be reduced in the amount by which it exceeds the **base** monthly provider reimbursement rate.

This language should remain in regulation (with the addition of 'base') if the copayment calculation is not changed. Otherwise, this becomes a barrier to accessing quality. A family could have a higher co-payment by attending a higher star level program. Removing the language as proposed; or leaving the language in without adding 'base', does not meet the objectives of these regulations or the spirit of the CCBDG Act.

**Clarification Required:**

**8.15.2.13 E (2)** A client must notify the department when their household income exceeds eighty-five percent of the state median income, taking into account any fluctuation(s) of income.

Will the SMI tables be published to ensure clients are **able** to meet this requirement? Currently, a family of 4 is at 86.27% of SMI at maximum income level for 200% FPL. A family of 5 is at 93.28% of SMI. 250% FPL puts families of 2 @ 104.09% of SMI, families of 3 @ 116.59%, families of 4 @ 126.58% and families of 5 @ 137.17%. **These calculations do not take into account typical family expenses such as housing, food, health care, diapers, transportation, etc., as required by the CCDF Final Rule (Federal Register / Vol. 81, No. 190 / Friday, September 30, 2016 / Rules and Regulations 67467).** Will the department revise the income guidelines to allow for standard deductions similar to LIHEAP and SNAP as suggested by the CCDF Final Rule?

**8.15.2.15 E (1)** Providers are not allowed to charge clients a registration/educational fee for any child who is receiving child care assistance benefits as listed under 8.15.2 NMAC. ~~[The department shall pay a five dollar monthly, not to exceed sixty dollars per year, registration/educational fee per child in full time care, on behalf of department clients under 8.15.2 NMAC. Adjustments to the five dollar registration/educational fee will be made based on units of care.]~~ The rates set forth below are informed by a cost estimation model and include expenses for registration/educational fees per child ~~and child and family activities~~ on behalf of clients under 8.15.2 NMAC.

'And child and family activities' must be stricken. This contradicts the next item in regulation:

**8.15.2.15 E (2)** In situations where an incidental cost may occur such as field trips, special lunches or other similar situations, the child care provider is allowed to charge the child care assistance family the additional cost, provided the cost does not exceed that charged to private pay families.

We recommend **adding:** *In addition, providers may charge reasonable fees for transportation to and from schools for school aged children, provided the cost does not exceed that charged to private pay families.*

The ability to charge reasonable transportation fees allows providers to recoup *some* of the extra costs that this imposes on the program. These are services that many working parents **need** and can be very costly to programs. The rates for school aged children effectively went down by \$0.27/ month with the stricken language as proposed in 8.15.2.15 E (1).

**8.15.2.15 G** Owners and licensees may not receive child care subsidy payments to provide care for their own children.

This language directly violates the spirit of the CCDBG Act. This would prevent access to many otherwise qualified families. We recommend changing the language to read: "Owners and licensees may not receive child care subsidy payments to provide care for their own children if they are the only children in care."

**8.15.2.17 C** The rates set forth below are informed by a cost estimation model and include expenses for registration/educational fees per child ~~and child and family activities~~ on behalf of clients under 8.15.2 NMAC.

'And child and family activities' must be stricken.

#### **Notable Discrepancies:**

**8.15.2.1 ISSUING AGENCY:** Children, Youth and Families Department.  
[8.15.2.1 NMAC - Rp, 8.15.2.1 NMAC, 10/1/2016]

The Department is now New Mexico Early Childhood Education and Care Department. Children, youth and families department or CYFD is also cited in the following:

8.15.2.7 C (1), 8.15.2.7 D (2), 8.15.2.7 N (1), **8.15.2.7 N (1) (b)** (this information is no longer relevant and should be stricken), 8.15.2.9 A (1), 8.15.2.9 A (2), 8.15.2.11 C (5), 8.15.2.11 C (6), 8.15.2.17 I, **8.15.2.17 I (1), 8.15.2.17 I 1 (a)** (this information is no longer relevant and should be stricken), 8.15.2.17 I (1) (b),

**8.15.2.17 I** Providers holding and maintaining ~~CYFD~~ **a department** approved national accreditation status will receive the differential rate listed in ~~Subsection I~~ **Subsection J** below, per child per month for full time care above the base rate for type of child care (licensed center, group home or family

CYFD should be changed to 'a department'. Subsection I should be changed to subsection J

**8.15.2.7 N (1) (b)** This information is no longer relevant and should be stricken.

**8.15.2.17 I (1)** This information is no longer relevant and should be stricken.

**8.15.2.17 I (1) (a)** This information is no longer relevant and should be stricken.

**Castillo, Alejandra, ECECD**

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**From:** [REDACTED]  
**Sent:** Sunday, October 24, 2021 1:37 AM  
**To:** ECECD-ECS-PublicComment  
**Subject:** [EXTERNAL] Co-Pays

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Unaffordable co-pays for child care are going to set the clock back on all the strides that have been made for children's welfare and early education. We again are going to see latch key kids. Older siblings in the role of caregivers. Single and even double income families are going to have some tough decisions to make. Universal Child care... at the very least birth to five should be available to all families.

[REDACTED]

Sent from my iPhone



**Castillo, Alejandra, ECECD**

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**From:** [REDACTED]  
**Sent:** Thursday, October 28, 2021 10:26 AM  
**To:** ECECD-ECS-PublicComment  
**Subject:** [EXTERNAL] I will be speaking today

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

My name is [REDACTED] Application [REDACTED], I have taken an hour off from my work ( I am a school teacher) and I have a very important case to make about child care as a single mother. I am hoping to speak between 1-2 today because I only have one hour of coverage for my classroom. As a single emom a school teacher I was only granted 150 dollars for help, but I am unable to pay for rent bills , still due to the guidelines and the parameters of the salary. It's imperative that I speak and make a case today for the workers like myself who are suffering due to preschool for our children. Thank you so much again. My name is [REDACTED] and I will be joining via zoom, from [REDACTED].  
marisa martinez

[REDACTED]

\*\*Disclaimer: This message and any attachments are intended for the use of the addresses(s) only and may be confidential and/or legally privileged. If the reader is not the intended recipient, DO NOT READ, notify sender and delete this message. In addition, be aware that any disclosure, copying, distribution or use of the contents of this message is strictly prohibited. The contents of this message, while possibly falling under the exceptions of the Inspection of Public Records ACT [NMSA Chapter 14, Article2] may be subject to inspection by the public.

**Castillo, Alejandra, ECECD**

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**From:** [REDACTED]  
**Sent:** Thursday, October 28, 2021 1:42 PM  
**To:** ECECD-ECS-PublicComment  
**Subject:** [EXTERNAL] Fwd: 8.15.2 NMAC Public Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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Our primary concern is: *What will happen July 1, 2022?* The co-payments we're seeing on the contracts - though waived right now - are going to be even higher and more unaffordable when minimum wage goes up again. We fully understand the need to balance the budget - and certainly the desire to serve more families with limited funds. The cost/benefit analysis just seems a bit off balance from a co-payment standpoint.

Please accept our attached public comments in reference to NMAC 8.15.2.

Thank you.

Sent from my iPhone

## Castillo, Alejandra, ECECD

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**From:** [REDACTED]  
**Sent:** Thursday, October 28, 2021 1:59 PM  
**To:** ECECD-ECS-PublicComment  
**Subject:** [EXTERNAL] 8.15.2 NMAC Public Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Please accept the following comments on the proposed revisions for NMAC 8.15.2:

## Affordability

### 8.15.2.13 B, 8.15.2.13 B (1), 8.15.2.13 B (2)

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## Castillo, Alejandra, ECECD

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**From:** [REDACTED]  
**Sent:** Thursday, October 28, 2021 2:14 PM  
**To:** ECECD-ECS-PublicComment  
**Subject:** [EXTERNAL] 8.15.2 NMAC Public Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Please accept the following comments on the proposed revisions for 8.15.2 NMAC:

# Affordability

## 8.15.2.13 B, 8.15.2.13 B (1), 8.15.2.13 B (2)

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**From:** [REDACTED]  
**Sent:** Thursday, October 28, 2021 1:10 PM  
**To:** ECECD-ECS-PublicComment  
**Subject:** [EXTERNAL] Public comments in reference to NMAC 8.15.2.  
**Attachments:** 8.15.2 Public Comments.docx

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

To whom it may concern,

TLC Development Centers has been serving low income New Mexican families for over 20 years. Currently we have 7 locations across 3 counties in New Mexico. In September of 2021, we served 371 children receiving child care assistance. Pre-COVID, our average was approximately 560 per month.

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Please accept our attached public comments in reference to NMAC 8.15.2.

Sincerely,

[REDACTED]  
[REDACTED] for TLC development Centers  
[REDACTED]

Please accept the following comments on the proposed revisions for 8.15.2 NMAC:

**Affordability**

**8.15.2.13 B, 8.15.2.13 B (1), 8.15.2.13 B (2)**

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*We establish a new **Federal benchmark for affordable family co-payments of seven percent of family income** and allow Lead Agencies more flexibility to waive co-payments for vulnerable families. (Federal Register / Vol. 81, No. 190 / Friday, September 30, 2016 / Rules and Regulations 67440)*

Currently, a single parent with 2 children will pay 10.36% of their gross income at 200% FPL. With 3 children, it jumps up to 12.21%. 13% for 4 children and 13.37% for 5 children. This is far above the federal benchmark of 7% and highlights the fact that the current co-payment methodology is **not** affordable for families.

The Child Care and Development Fund Plan for New Mexico for FFY 2022-24 *requires Lead Agencies to establish and periodically revise a sliding-fee scale for CCDF families that varies based on income and the size of the family to determine each family's contribution (i.e., co-payment) **that is not a barrier** to families receiving CCDF funds (658E(c)(5)). 3.2.2 Gives options for calculating the co-payments. The best of which is 3.2.2 b v – **The fee is a percent of income, and the fee is per family.*** Given that the CCDF Final Rule sets a 7% benchmark, it seems logical that this should be the standard for New Mexican families.

**Stricken Language: 8.15.2.13 E** The co-payment for a child shall not exceed the **base** monthly provider reimbursement rate. If this situation arises, the co-payment may be reduced in the amount by which it exceeds the **base** monthly provider reimbursement rate.

This language should remain in regulation (with the addition of 'base') if the copayment calculation is not changed. Otherwise, this becomes a barrier to accessing quality. A family could have a higher co-payment by attending a higher star level program. Removing the language as proposed; or leaving the language in without adding 'base', does not meet the objectives of these regulations or the spirit of the CCBDBG Act.

**Clarification Required:**

**8.15.2.13 E (2)** A client must notify the department when their household income exceeds eighty-five percent of the state median income, taking into account any fluctuation(s) of income.

Will the SMI tables be published to ensure clients are **able** to meet this requirement? Currently, a family of 4 is at 86.27% of SMI at maximum income level for 200% FPL. A family of 5 is at 93.28% of SMI. 250% FPL puts families of 2 @ 104.09% of SMI, families of 3 @ 116.59%, families of 4 @ 126.58% and families of 5 @ 137.17%. **These calculations do not take into account typical family expenses such as housing, food, health care, diapers, transportation, etc., as required by the CCDF Final Rule (Federal Register / Vol. 81, No. 190 / Friday, September 30, 2016 / Rules and Regulations 67467).** Will the department revise the income guidelines to allow for standard deductions similar to LIHEAP and SNAP as suggested by the CCDF Final Rule?

**8.15.2.15 E (1)** Providers are not allowed to charge clients a registration/educational fee for any child who is receiving child care assistance benefits as listed under 8.15.2 NMAC. ~~[The department shall pay a five dollar monthly, not to exceed sixty dollars per year, registration/educational fee per child in full time care, on behalf of department clients under 8.15.2 NMAC. Adjustments to the five dollar registration/educational fee will be made based on units of care.]~~The rates set forth below are informed by a cost estimation model and include expenses for registration/educational fees per child ~~and child and family activities~~ on behalf of clients under 8.15.2 NMAC.

‘And child and family activities’ must be stricken. This contradicts the next item in regulation:

**8.15.2.15 E (2)** In situations where an incidental cost may occur such as field trips, special lunches or other similar situations, the child care provider is allowed to charge the child care assistance family the additional cost, provided the cost does not exceed that charged to private pay families.

We recommend **adding:** *In addition, providers may charge reasonable fees for transportation to and from schools for school aged children, provided the cost does not exceed that charged to private pay families.*

The ability to charge reasonable transportation fees allows providers to recoup *some* of the extra costs that this imposes on the program. These are services that many working parents need and can be very costly to programs. The rates for school aged children effectively went down by \$0.27/ month with the stricken language as proposed in 8.15.2.15 E (1).

**8.15.2.15 G** Owners and licensees may not receive child care subsidy payments to provide care for their own children.

This language directly violates the spirit of the CCDBG Act. This would prevent access to many otherwise qualified families. We recommend changing the language to read: “Owners and licensees may not receive child care subsidy payments to provide care for their own children if they are the only children in care.”

**8.15.2.17 C** The rates set forth below are informed by a cost estimation model and include expenses for registration/educational fees per child ~~and child and family activities~~ on behalf of clients under 8.15.2 NMAC.

‘And child and family activities’ must be stricken.

#### **Notable Discrepancies:**

**8.15.2.1 ISSUING AGENCY:** Children, Youth and Families Department.  
[8.15.2.1 NMAC - Rp, 8.15.2.1 NMAC, 10/1/2016]

The Department is now New Mexico Early Childhood Education and Care Department. Children, youth and families department or CYFD is also cited in the following:

8.15.2.7 C (1), 8.15.2.7 D (2), 8.15.2.7 N (1), **8.15.2.7 N (1) (b)** (this information is no longer relevant and should be stricken), 8.15.2.9 A (1), 8.15.2.9 A (2), 8.15.2.11 C (5), 8.15.2.11 C (6), 8.15.2.17 I, **8.15.2.17 I (1)**, **8.15.2.17 I 1 (a)** (this information is no longer relevant and should be stricken), 8.15.2.17 I (1) (b),

**8.15.2.17 I** Providers holding and maintaining ~~CYFD~~ **a department** approved national accreditation status will receive the differential rate listed in ~~Subsection I~~ **Subsection J** below, per child per month for full time care above the base rate for type of child care (licensed center, group home or family

CYFD should be changed to 'a department'. Subsection I should be changed to subsection J

**8.15.2.7 N (1) (b)** This information is no longer relevant and should be stricken.

**8.15.2.17 I (1)** This information is no longer relevant and should be stricken.

**8.15.2.17 I (1) (a)** This information is no longer relevant and should be stricken.

**Castillo, Alejandra, ECECD**

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**From:** [REDACTED]  
**Sent:** Thursday, October 28, 2021 3:51 PM  
**To:** ECECD-ECS-PublicComment  
**Cc:** [REDACTED]  
**Subject:** [EXTERNAL] 8.15.2 NMAC Comment  
**Attachments:** FINAL-Comment Letter on Reg 8.15.2-2021-10-28.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good Afternoon,

Please find our comment letter regarding these proposed regulations attached.

Best,

[REDACTED]  
she/her/ella  
Public Benefits Attorney  
Abogada  
[REDACTED]

***We Moved!***

***Please note our new mailing address-***

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]



October 28, 2021

New Mexico ECECD  
[Redacted]  
[Redacted]

Via email: [ECECD-ECS-PublicComment@state.nm.us](mailto:ECECD-ECS-PublicComment@state.nm.us)

**Re: 8.15.2 NMAC Public Comment**

To Whom it May Concern:

Please accept the following comments on the proposed revisions to 8.15.2 NMAC regarding the New Mexico Early Childhood Education & Care Department (ECECD) child care assistance program.

The undersigned organizations have extensive experience working with low-income families in New Mexico to ensure they have access to services that improve the lives of our state's children. We pay particular attention to the child care assistance program as it is a critical work support for low-income households. We have first-hand experience assisting families in accessing child care in New Mexico. We are hopeful that the new department, ECECD, will bring about increased access to much-needed child care and continue to work toward removing administrative barriers that prevent eligible families from receiving assistance.

We thank ECECD for making these important changes to the Child Care Assistance Regulations. The proposed changes improve access to affordable childcare that parents can trust to provide a safe space for their children to learn while they work to further their education and to support their families. Child care assistance allows parents to work toward attaining economic security for their family, and it provides a safe learning environment for New Mexico's children. While we support the proposed rules, we urge the Department to take the additional steps outlined below and promulgate a final rule which incorporates our specific suggestions.

**Eligibility**

As to the matter of eligibility, we ask that the Department consider expanding the child care assistance program to all low income families, regardless of their immigration status, through the use of state subsidies. This change would benefit many New Mexicans who play valuable roles in our state and are often essential workers.

**I. Regulation Changes We Support**

**A. Section 8.15.2.10- We support the additions to the application process.**



We support all of the changes to this section, including the addition of the full list of eligibility verification documents to the regulation. This list is a complete list of the documents that the Department requires.

**B. Section 8.15.2.11 (C)(6)- We support the addition to exempt income.**

The Department's proposal to exempt the income of graduate and other educational stipends aligns with the purposes of the CDBG Act to provide access to children to quality child care and recognizes the economic realities of parents who are furthering their education. We support this proposal and thank the Department for addressing this issue.

**C. Section 8.15.2.15 (I)- We support this addition promoting equal access.**

We thank and support the Department for adding this section to prohibit discrimination and explicitly state that providers must provide equal access to children and families. We commend the Department for taking into consideration the diversity of our state and ensuring that all New Mexicans have equal access to these services.

**II. Regulations We Recommend Changing**

**A. One general suggestion is related to Section 8.15.2.7 (D)(2), (N)(1)-(b); 8.15.2.11(C)(5)-(6); 8.15.2.15 (F), 8.15.2.17 (I)-(I)(1)(b)- Change the Department Name to ECECD**

All of these sections of the regulation continue to refer to the Department as "CYFD." We ask that the change be made so that the department in the regulation is ECECD. Thank you to the Department for making this minor change to match the new Department as the issuing agency.

**B. Section 8.15.2.7(P)(7)- Permit the Use of Family, Friends or Neighbors upon request.**

We support the proposed change, however, we ask that the Department consider allowing FFN Caregiving upon request, not only in the case of a public health emergency. This is permitted under federal law, is the type of care that some parents choose and need, and it opens the door to connect FFN providers with supports that can help them provide quality care.

**C. Section 8.15.2.15 (G)- Allow licensed providers to receive benefits for their own children.**

We ask that the Department remove this section prohibiting that child care owners and licensees receive child care subsidy payments. This change will benefit hundreds of people in the community who are providing a valuable resource to the community and also need to use this resource. We know that there is currently a large child care workers shortage.<sup>1</sup> This type of support for child care workers would help not only those workers but would help other people be able to return to work in essential jobs, and all jobs, by supporting the people who can care for their children. As you know, child care workers are designated as essential workers and qualify for free child care funded by ARPA funds.

**D. Section 8.15.2.11(C) NMAC – Add provisions that ensure grandparents are exempt from the work or education requirement and can receive child care assistance without having to apply for TANF.**

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<sup>1</sup> Heather Long, 'The pay is absolute crap': Child-care workers are quitting rapidly, a red flag for the economy, Washington Post (Oct. 27, 2021, 3:34 AM), <https://www.washingtonpost.com/business/2021/09/19/childcare-workers-quit/>.

The Department should make additional changes to ensure that children being raised by grandparents have access to care. The proposed regulations specify that only grandparents who are legal guardians must qualify under the program's income limits and when they qualify, can have their co-payments waived. This is a positive change that we support. However, grandparents who are retired should not be subject to the work or educational requirements for child care. Current New Mexico law for the TANF cash assistance recognizes this and does not impose a work requirement on participants who are 60 or older.<sup>2</sup> In its final regulation, we ask the Department to amend its rules to allow for waiving the work or educational requirement for grandparents raising grandchildren.

Additionally, when grandparents **are** the legal guardians of the children and do work, their income should not be counted towards the eligibility limit. Again, the TANF cash assistance program also provides that grandparents can participate in that program regardless of income level.<sup>3</sup> Current child care assistance regulations provide that TANF families are eligible for child care regardless of income level.<sup>4</sup> However, we should not ask grandparents to apply for and participate in TANF to qualify for child care assistance. Instead, the Department should mirror the child care regulations to reflect the TANF program, and qualify children being raised by grandparents without regard to income.

**E. 8.15.2.7 (E)(2), (J)- We support the addition of the "Essential worker" definition and the addition to the definition of "Job training and educational program."**

We commend the department for defining "Essential worker" as that term describes members of our community who are keeping our economy going during the public health emergency and need support to continue to do their jobs. While we support this addition, it is unclear as to what is the "period of economic recovery," is there a timeframe after the public health emergency that benefits will be extended for essential workers? We propose XX months.

We also support and thank the Department for including graduate and post graduate programs or classes in the definition of eligible training and educational programs.

**F. Section 8.15.2.11(B)(5) - Clarify that benefits continue only if a household returns to an approved activity**

This regulatory language on eligibility is confusing and seems to contradict itself. We suggest revising this section to read as follows:

(5) If a client experiences a non-temporary change in activity, the child care placement agreement will terminate after a 90-day grace period; however, if the client returns to an approved activity they will remain eligible for the prior approved 12-month eligibility period.

### Conclusion

We thank the Department for its commitment to making childcare more accessible and affordable for New Mexico's families. While we support all the changes, we ask the Department to include our suggested amendments in the final rule for the reasons discussed above.

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<sup>2</sup> NMSA 1978 §27-2B-5(I)(2); 8.102.420.11(A)(1) NMAC.

<sup>3</sup> 8.102.400.11 NMAC.

<sup>4</sup> 8.15.2.9(A) NMAC.

Sincerely,

NM Center on Law and Poverty

OLÉ New Mexico

New Mexico Asian Family Center

Center for Civic Policy (CCP)

Lutheran Advocacy Ministry – New Mexico

New Mexico Conference of Churches

Future Focused Education

**Oral Comment #1**  
**Public School Teacher**

My name is [REDACTED] and I'm a Preschool teacher at [REDACTED]. I'm representing myself. I have a three year old daughter and have applied for ECECD, ECS grant to help me with child care and I would like to speak on that issue because I only got about \$100.00 dollars of assistance and it's not helping me as a single mom. So I'm really concerned about the child care aspect of this whole initiative. So that's why I'm speaking today, but I feel like I'm speaking on behalf of many people that are in my situation. So, I hope I get to speak today. So. Right now I can speak? Oh great because I have a child, I have coverage for my classroom. I moved here and I'm actually originally from Albuquerque, but I moved with my two daughters, and I have a [REDACTED]-year-old and a [REDACTED] year old and I am a public school teacher. I've been teaching for almost 20 years. I applied for preschool assistance. After all of my taxes come out, my retirement, my social security and medical care; I get about \$3,100.00 take home pay a month. Considering what the prices are in Santa Fe to rent a one bedroom and a two bedroom is about \$1,700.00, \$1,800.00. And that's about what I'm paying. Now also, the childcare for preschool, and this the low end, he's about \$900.00. So that's about what I'm paying now and I did apply because they-and-did, encourage me, to apply for an ECECD grant. And I got about \$150.00 worth of assistance. So, I'm looking at my, I'm looking at my, my money that I'm expending out as \$1,700.00 for, for rent, \$995.00 minus \$150.00 that I do get credit for, which I am grateful for, but I'm a single mom. And I represent a lot of people that are just making a certain amount too much but not getting the assistance that we need. Now, I'm a kindergarten teacher here at Salazar Elementary and I'm bilingual, and there's no teachers available so I have almost 30 children in my classroom. Now, I am unable to make my bills because my child care is \$995.00 but minus the \$150.00 now. I'm still unable to make my rent, my bills, my student loan as a public school teacher. Now, I get, I get about the top end salary as a school teacher here in Santa Fe. But the pay is, but the cost of living in Santa Fe is exorbitant as all of you know. And I make too much money to make, to get more assistance, which I'm hoping today that we can take a look at. Making \$3,000 a month and paying almost \$1,000 for childcare is not sustainable. And that a lot of parents are not two parents. There are a lot of single parents. And I could drive to Rio Rancho every day and pay \$1,000 a month but I choose to live here in Santa Fe which is a place that I've moved to. [REDACTED] and I decided to move back to the city that I am from and love. Now, I am hoping that I speak for a lot of people in my situation. And especially me as a school teacher that is part of the community. I am no longer going to be able to, in December, to continue to be a school teacher because I cannot afford preschool and work. Now, if I worked at a fastfood restaurant I would make less money, then I would be able to afford preschool. So it's a double take there. And I'm speaking slower because I know someone's interpreting this in two languages in Sign Language and in Spanish. But my hope is to bring to you today that I know that there's a certain cap on the money. But, I really want you to look at where it should be at, because of the costs in Santa Fe, because of people like me that are not making it. Now I've started to work at DoorDash on the weekends, so I can afford childcare. But it makes more sense for me to be a nanny on the weekdays rather than be part of the public schools. Now, I didn't, I, the preschool I chose was the less expensive one and one that I can drop

my child off at seven o'clock and pick her up at five because I do work at the public schools all day long.

I hope that those who will be listening to this today because making after, after, after I take all my taxes and all my medical bills it is about \$3,100.00 a month. Now to pay \$1,000.00, one-third of my paycheck is not sustainable. And it is not sustainable for so many people. And I know a lot of school teachers that say “well, I want to go back to work but I can't because I can't afford childcare.” So I'm imploring those who are listening, and that can do something about this, is to please change something so that people like myself who do make a certain amount of change, change the salary is what I'm trying to say is because making \$3,000 dollars a month in Santa Fe isn't, is still not sustainable, especially with the considering the rent and food and everything else. So that's my, that's my imploring people today and I hope they will listen and I'm really thankful for any assistance and I know that other people like myself will be as well as single moms. So thank you so much. Gracias por todo.

**Oral Comment #2**  
**New Mexico Center on Law and Poverty,**

Hello, good afternoon everyone. My name is [REDACTED]. I'm [REDACTED] at the New Mexico Center on Law and Poverty. And we partner with many community organizations that have extensive experience working with low-income families in New Mexico to ensure that they have access to services to improve New Mexico's children's lives and the childcare assistance program is critical for, as a support for low income households. We thank ECECD for making important changes to the childcare assistance regulations to improve access to affordable care, childcare, so that parents can have a safe place for their children to be while parents work and also further their education. We support many of the changes that are being made to these regulations. However, we do urge that the department take additional steps to improve the childcare assistance program. As to the matter of eligibility, we asked the department consider expanding the childcare assistance program to allow low income families, regardless of their immigration status, to be eligible for this program through use of state subsidies. This would change, this change would benefit many New Mexicans, many of whom play valuable roles in our state, and also are often the essential workers. We support the addition to exempt, we support the addition to the exempt income section to include graduate and other educational stipends. We support the addition of the term essential worker, but we do ask that the department define the period of economic recovery, just so that we can know what the timeframe is. We support the addition of the section that promotes equal access. We also support the changes that have been made to the application process including the additional of the full list of eligibility verification documents in the, within the regulation. We support the change to include family, friends or neighbors for caregiving, however, we do ask the department consider allowing FFN caregiving upon request and not just in the case of public health emergency. We asked the department removed a section that prohibits that childcare owners and licensees receive childcare subsidy payments. So the section currently prohibits that, but we ask that they be allowed to receive those subsidy payments is that change will benefit hundreds of people in communities who are both providing this valuable resource to people but also need to be able to use childcare assistance. As you know, childcare workers are designated as essential workers and qualify for free childcare,

childcare that is funded through ARPA funds. We ask that the department add provisions to ensure that grandparents are exempt from the work or education requirements and can receive childcare systems without having to apply for TANF. Finally, we asked for the department to clarify that benefits continue only if they household returns to approve the activity. So, the regulation language is confusing right now and it seems to contradict itself. It's, we suggest that the revision be made to read something like, "if a client experiences a non-temporary change in activity, the childcare placement agreement will terminate after a 90-day grace period. If a client returns to an approved activity, they will remain eligible for the prior approved 12-month eligibility period." Thank you so much for your time and for letting me comment today.

**██████████ Oral Comment #3**  
**TLC Development Center**

Thank you very much. My name is ██████████, again from TLC development centers. I was quite moved by the comments by ██████████ being a public-school teacher in Santa Fe. And that goes right along with written comments that I did submit. We're encountering many situations like that. We actually received a contract today with, that was backdated and effective August 1 and the copayment for one of the children is, I believe it was \$556.00 and \$271.00 for the second child, and it's, when we did the math, the difference in the reimbursement from what we would receive from licensing versus the copayment, I believe we're getting 26 cents for that child for the month. And we've encountered many of these in the last couple of months and what we have as an organization and trying to do, especially for the P4 Plus category contracts, is we're manually calculating the cash filling versus what our reimbursement is from the state versus what the copay is and kind of trying to subsidize the family's copayment if you will, because they're completely unaffordable for most families. And I did put some recommendations in the, in the written public comment that I made as far as maybe looking at doing a flat percentage of income. That, that is what is recommended by the Feds in their final rule on the Block Grant and I believe it would be very beneficial. Now of course, you still have to balance the budget. That's totally understandable. And we're trying, our goal is to serve as many families as we can. But, is it serving them if it's unaffordable for them? I just, it's a balancing act that I wouldn't want. I wouldn't wish on anybody because I'm sure it's very complex. But that was, oh, and then also sorry, about the provider. Currently, there's the recommend-, the addition that's adding the statement saying that owners or licensees may not receive subsidy for their own child. And that totally goes against the spirit of the block grant. And it would prohibit many, otherwise, qualified people from getting the assistance that they need. Now, we had a discussion in the past two weeks, myself and members of BEFORE and members of the ELAC committee, and just you know, I did a lot of research on it too, because I was confused as to why that language would even be proposed. And it did come up that possibly there's, through the friends and family licensing, that emergency licensing that happened, there's perhaps some people still receiving subsidy for their own child, and that's the only child in care. Now I do agree that that's not acceptable. So I just did recommend changing the language to read, "an owner or licensee may not receive subsidy payments for their own child if their own child is the only child in care." I

think that makes it so that it, it gets rid of the people who aren't taking possible advantage and still keeps it available for those who are not. And that, that's it. Thank you so much for your time.

**Oral Comment #4**  
**BEFORE**

Thank you. Again, my name is [REDACTED]. I'm the [REDACTED] of BEFORE. We represent childcare owners, educators and families relying on childcare assistance in the childcare system. First of all, I would like to make sure that we are getting the celebrations where celebrations are due with the new ECECD department. And the increased reimbursement levels for infant and toddlers have been great, and the removal of the childcare, the child support requirement, but we do have some concerns with the new proposed regulations and the increase in the eligibility levels. We celebrate the increase and we need that, we need to be covering more families. But the US Department of Health and Human Services does recommend that states require, can require family copayments to be no more than 7% of the family's income. I believe we have a lot of work to do when we're coming to the co-, looking at the copays, especially when we're looking at the higher income families who still can't afford childcare and the copays are also proving to be unaffordable. So for example, a family of three, or with three children, so that would be a family of five, making 250% of the federal poverty level is paying almost 16% of their gross income. And a family of 300% of the federal poverty level with three children is paying over 20% of their income on their copays. We find this unaffordable, and we'd like to recommend that the department look at the federal recommendation of no more than 7%. If we look at and review the Child Development Block Grant, there are areas in the, in the block grant where we can, we can check a box, the department can check a box and say that they're looking at the percentage of income in regards to copayment. And they also state that copayment should not be a barrier to families receiving CCDF funds. Therefore, I think in the increased eligibility we need to really approach copayments. Copayments for families, even on the lower end of FPL, are still unaffordable, when we we're charging this much for the first child and then the second child and so on. As well as copayments once they start kicking in again, there's so, copayment in the chart, assisted families and 100% of the federal poverty level. And I don't believe that they should have copayments at all. So I would really like the department to, to look at and address, the copayments and the copayment model as well as the new regulation that is being proposed. The owners and licensees may not receive childcare subsidy payments to provide care for their own children. This will have a drastic impact on registered homes and licensed homes. Many of these places have started their businesses for, you know, because they were with their own children and childcare was unaffordable. And if their income says that they qualify, they should, they should qualify. The children count in the ratios, they are enrolled in the program and they receive the same services. I don't believe that job title such as director in childcare program should make it impossible for them and their children to receive this education and these services. So with that I, I asked that we drop that regulation or completely rethink it for, maybe, it's true intent, which I'm not sure what that is. So, thank you.