

August 5, 2013

RE: Docket ACF–2013–0001, regarding proposed changes to the Child Care and Development Fund (CCDF) regulations

Submitted via <http://www.regulations.gov>.

The Children’s Environmental Health Network (CEHN) [the National Center for Healthy Housing (NCHH), Center for Environmental Research & Children’s Health (CERCH), the Institute of Neurotoxicology & Neurological Disorders (INND), and the National Resource Center for Health and Safety in Child Care and Early Education (NRC)] appreciate the opportunity to provide these comments regarding the HHS’ NPRM regarding proposed changes to the Child Care and Development Fund (CCDF) regulations.

We strongly agree with HHS on the importance of healthy and safe early environments, including child care.

As HHS writes:

...we know that health and safety is the foundation for building a high quality early learning environment. (P. 29446)

And

A growing body of research demonstrates that the first five years of a child’s cognitive and emotional development establish the foundation for learning and achievement throughout life. (P. 29442)

This “growing body of research” includes solid evidence that a child’s environment -- including but not limited to the chemicals a child encounters before birth, at home, and at child care and school -- has profound effects on a child’s health, development and ability to learn. Environmental exposures play a role in the cause, prevention, or mitigation of today’s pediatric epidemics of obesity, asthma, learning disabilities, and autism. (See Attachment A for overview of current science and citations.) [Introduction to children’s environmental health.pdf]

Thus, we write to urge the Department to incorporate, at a minimum, key environmental health considerations in these regulations. The regulations, as currently drafted, do not address basic pediatric facts about child health and development such as these:

- Children are more susceptible and more vulnerable than adults to toxic chemicals.
- Children are growing. Pound for pound, children eat more food, drink more water and breathe more air than adults. Thus, they are often more exposed to substances in their environment than adults.
- Children have are different from adults in how their bodies absorb, detoxify and excrete toxicants.
- Children’s systems, including their nervous, reproductive, digestive, respiratory, and immune systems, are developing. When these systems are forming, there are periods of

increased vulnerability to toxic substances that disrupt normal developmental processes. Exposure to toxicants during these periods may result in irreversible damage when the same exposure to a mature system may result in little or no damage.

- Children behave differently than adults, leading to a different pattern of exposures to the world around them. For example, they exhibit hand-to-mouth behavior, ingesting whatever substances may be on their hands, toys, household items, and floors. Children play and live in a different space than do adults. For example, very young children spend hours close to the ground where there may be more exposure to toxicants in dust, soil, and carpets as well as low-lying vapors such as radon, mercury vapor or pesticides.
- Children have a longer life expectancy than adults; thus they have more time to develop diseases with long latency periods that may be triggered by early environmental exposures, such as cancer or Parkinson's disease.
- Though the process of child growth and development does not change, the world of today's children has changed tremendously from that of previous generations. One of these changes is the phenomenal increase in chemicals to which children are exposed. As reported by the EPA, 83,000 industrial chemicals are currently produced or imported into the United States. The Centers for Disease Control and Prevention's National Human Exposure Report has amply demonstrated that such chemicals often are ubiquitous, appearing in the vast majority of blood and urine samples taken at random from the general population in the U.S. Many of these are readily passed across the placenta to the fetus or to the infant via breast milk.

As HHS writes:

CCDF regulations pre-date much of the current science on brain development in the early years of children's lives.
(P 29444)

Growing research reports are finding unexpected impacts of early life environmental exposures on health and development. For example, prenatal exposures to either a common air pollutant or a common pesticide have both been linked to lower IQs and poorer working memory at age 7.^{1, 2}

Fortunately, awareness of these concepts is growing in the field of child care and early environments. For example, in the resource *Caring for Our Children*, 3rd Edition, published by the National Resource Center for Health and Safety in Child Care and Early Education, a number of better practices on environmental health are incorporated (in chapter 5, 58 of the 167

¹ Perera, F., S. Wang, J. Vishnevetsky, B. Zhang, KJ Cole, D. Tang, V. Rauh, DH Philips, [PAH/Aromatic DNA Adducts in Cord Blood and Behavior Scores in New York City Children](#). *Environ Health Perspect*, 2011.

²-Rauh V, Arunajadai S, Horton M, Perera F, Hoepner L, Barr DB, Whyatt R. [7-Year Neurodevelopmental Scores and Prenatal Exposure to Chlorpyrifos, a Common Agricultural Pesticide](#). *Environmental Health Perspectives*, published 21 Apr 2011. doi: 10.1289/ehp.1003160

-Engel SM, Wetmur J, Chen J, Zhu C, Barr DB, Canfield RL, Wolff MS. [Prenatal Exposure to Organophosphates, Paraoxonase 1, and Cognitive Development in Childhood](#) *Environmental Health Perspectives*, published 21 Apr 2011. doi: 10.1289/ehp.1003183

-Bouchard MF, Chevrier J, Harley KG, Kogut K, Vedar M, Calderon N, Trujillo C, Johnson C, Bradman A, Barr DB, Eskenazi B. [Prenatal Exposure to Organophosphate Pesticides and IQ in 7-Year Old Children](#). *Environmental Health Perspectives*, published 21 Apr 2011. doi: 10.1289/ehp.1003185

standards address environmental health).

Thus, HHS' ultimate goal of assuring basic health and safety requirements in affected child cares through CCDF regulations will not be met unless environmental health is incorporated into these regulations. We strongly urge the Department to promote environmental health and thus protect these vulnerable children in this important setting. We are happy to provide additional information.

Our recommendations for these sections follow.

A. § 98.16(v)(2) Reporting of serious injuries or deaths

B. § 98.20 A child's eligibility for child care services.

C. § 98.41 Health and safety requirements. *Building and physical premises safety.*

D. § 98.41 Health and safety requirements, *Minimum health and safety training.*

Training for (iii) Poison prevention and safety

Training for (xii) Caring for children with special health care needs, mental health needs, and developmental disabilities

Training for (xiii) Child development

E. § 98.41(d) Monitoring

F. § 98.51(a)(2)(iv) Implementation of professional development systems

G. § 98.54 Restrictions on Use of Funds regarding Facility Remodeling

H. § 98.33 Consumer education

A. § 98.16(v)(2) Reporting of serious injuries or deaths

HHS proposes that Lead Agencies are to not only list and describe the annual number of child injuries and fatalities in child care but also to describe the results of an annual review of all serious child injuries and deaths occurring in child care (including both regulated and unregulated child care centers and family child care homes). (P. 29453)

Comments:

As stated by the Centers for Disease Control and Prevention, no safe level of lead exposure in children has been found. Childhood lead exposure, even at low levels, remains a critical public health issue. It is a costly disease, with recent estimates putting its price tag at over \$50 billion in a single year due to lost economic productivity resulting from reduced cognitive potential. Once a child's health or cognition has been harmed by lead, the effects are permanent and continue into adulthood.³

Children of color and low-income children are disproportionately at risk for elevated blood lead levels (EBLLs). More than 500,000 U.S. children ages 1–5 have BLLs greater than the current reference dose of 5 µg/dL. Children belonging to families with a low income (130% of poverty level) are more than three times as likely children in higher income families to have high blood

³ National Center for Healthy Housing, *Issue Brief: Childhood Lead Exposure and Educational Outcomes* http://www.nchh.org/Portals/0/Contents/Childhood_Lead_Exposure.pdf

lead levels. Non-Hispanic black children are more than twice as likely as non-Hispanic white children to have BLLs at or above 5 µg/dL.⁴

Thus, we urge HHS to require a blood lead screening result when children enroll in a CCDF-funded program and blood lead screening at the ages of 12 months and 24 months if the child is enrolled prior to reaching that age. We also recommend that an elevated blood lead level (EBLL) be reported under this program as a serious injury unless the child's caregiver's home or child care facility has been shown not to be the source of the exposure.

B. § 98.20 A child's eligibility for child care services.

HHS proposes adding this paragraph:

(d) Lead Agencies must take into consideration developmental needs of children when authorizing child care services and are not restricted to limiting authorized child care services based on the work, training, or educational schedule of the parent(s).
(P 29494)

Comments:

We urge that an elevated blood lead level (EBLL) (currently $\geq 5\mu\text{g}$) in a child be considered evidence of developmental need. As stated by the Centers for Disease Control and Prevention, no safe level of lead exposure in children has been found.

We urge that guidance be offered to assure that children are protected from lead hazards. The Environmental Protection Agency requires that renovation in any child-occupied facilities and housing built before 1978 be performed by a certified renovation firm in compliance with lead-safe work practices at 40 CFR 745. Where lead remediation or renovation work any child-occupied facilities and housing built before 1978 necessitates the displacement of child care space, funding for child care at an alternative location should be provided.

C. § 98.41 Health and safety requirements, *Building and physical premises safety.*

HHS writes:

Section 658E(c)(2)(F) of the CCDBG Act requires that Lead Agencies have in effect requirements designed to protect the health and safety of children that are applicable to providers serving children receiving subsidies which must include "building and physical premises safety." However, the CCDBG Act and current regulations do not specify expectations for this requirement. We propose to amend § 98.41(a)(2) to describe minimum requirements for "building and physical premises safety." The proposed change would specify that this requirement shall include:

- . . . ii. Compliance with State and local fire, health, and building codes for child care, which must include ability to evacuate children in the case of an emergency.

⁴ MMWR, Blood Lead Levels in Children Aged 1–5 Years — United States, 1999–2010, April 5, 2013
http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6213a3.htm?s_cid=mm6213a3_e

(P 29465)

And

The proposed requirement at § 98.41(a)(2)(ii) does not prescribe the fire, health, or building codes that should be applied to child care centers or family child care homes. Rather, Lead Agencies have the flexibility to determine the appropriate codes to apply to different providers. We are specifically seeking comments on the provision at 98.41(a)(2)(ii) requiring that health and safety inspections be completed prior to serving children receiving child care assistance.

(P 29466)

Comments:

We urge that HHS recognize the limitations of relying on local building codes to assure building health and safety. Rarely do such codes adequately address the identification and mitigation of environmental issues and, thus, requiring “compliance with State and local fire, health, and building codes for child care” does not sufficiently protect children’s health and development. For example, the International Property Maintenance Code, which governs maintenance of existing buildings, lacks provisions for carbon monoxide alarms, integrated pest management, repair of lead hazards, compliance with EPA’s renovation rule in pre-1978 properties, management of moisture and mold, and radon mitigation.⁵

We urge that the regulations track the best practices presented in *Caring for Our Children*, 3rd Edition (<http://nrckids.org/CFOC3/index.html>), which includes practical, proven steps and policies to assure facility health and safety.

The regulations should also explicitly require compliance with the EPA [Renovation, Repair, and Painting \(RRP\) Rule](http://www2.epa.gov/lead/lead-renovation-repair-and-painting-program-rules) (<http://www2.epa.gov/lead/lead-renovation-repair-and-painting-program-rules>) in facilities built before 1978. Improperly-conducted painting, renovation, and repair activities can harm children’s health and ability to learn by creating hazardous lead dust when surfaces with lead paint, even from many decades ago, are disturbed. The rule, effective as of April 22, 2010, requires workers to be certified and trained in the use of lead-safe work practices, and requires renovation, repair, and painting firms to be EPA-certified. It should be an obvious requirement that child cares -- places where very young children spend time -- must comply with this rule and must certify such compliance. Child care staff should also be trained in the need for compliance with the rule and about potentially-harmful practices that could create lead dust.

D. § 98.41 Health and safety requirements, *Minimum health and safety training.*

Regulatory language: § 98.41 Health and safety requirements: *Minimum health and safety training.*

⁵ International Code Council, *2012 International Property Maintenance Code*, <http://publicecodes.cyberregs.com/icod/IC-P-2012-000019.htm>

... (3) **Minimum health and safety training** appropriate to the provider setting and age of children served, which shall, at a minimum, include pre-service or orientation training in the following areas: (i) First-aid and Cardiopulmonary Resuscitation (CPR); (ii) Medication administration policies and practices; (iii) **Poison prevention and safety**; (iv) Safe sleep practices including Sudden Infant Death Syndrome (SIDS) prevention; (v) Shaken baby syndrome and abusive head trauma prevention; (vi) Age-appropriate nutrition, feeding, including support for breastfeeding, and physical activity; (vii) Procedures for preventing the spread of infectious disease, including sanitary methods and safe handling of foods; (viii) Recognition and reporting of suspected child abuse and neglect; (ix) Emergency preparedness planning and response procedures; (x) **Management of common childhood illnesses**, including food intolerances and allergies; (xi) Transportation and child passenger safety (if applicable); (xii) **Caring for children with special health care needs, mental health needs, and developmental disabilities** in compliance with the Americans with Disabilities (ADA) Act; and (xiii) **Child development**, including knowledge of stages and milestones of all developmental domains appropriate for the ages of children receiving services.
(P 29495)
(emphasis added)

Comments:

Training for (iii) Poison prevention and safety

Training regarding child development must include understanding the role of the environment, including chemical exposures, in influencing child development, and training in practices that prevent or mitigate environmental-related health outcomes, such as removing asthma triggers or preventing children's exposure to lead, pesticides, and other neurotoxins.

As HHS recognizes:

Toxic substances, when ingested, inhaled, or in contact with skin, may react immediately or slowly, with serious symptoms occurring much later.
(P 29467)

(We would clarify that statement to read "Toxic substances, when ingested, inhaled, or in contact with skin, may cause an immediate or gradual reaction, often without symptoms, while harm is not evident until much later.")

It is not only "important for the caregiver to have the appropriate training to recognize symptoms, alert the poison control center, and undertake the appropriate response," it is just as important for caregivers to have the appropriate training to prevent exposures to proven or potentially harmful chemicals found in home and child care settings.

Children can have elevated blood lead levels with no evident symptoms. Many of the environmental hazards that result in harm to children's health or development, such as radon, lead, and asbestos, are not readily detected. Yet exposure to these and other environmental contaminants can cause or exacerbate asthma, lower IQ, affect working memory, or increase the risk of cancer in later life.

Fortunately, the most recent edition of the *Caring for Our Children*, 3rd Edition standards referenced on page 29467 include practices to address environmental hazards. We believe that these topics need to be explicitly mentioned in the regulations. Thus, we urge the Department to change:

(iii) Poison prevention and safety;

To

(iii) Poison prevention and environmental health and safety;

We urge that supporting language specifically mention toxicants, toxicant health impacts, and how to prevent or mitigate toxicant exposures. This should include training about the EPA [Renovation, Repair, and Painting \(RRP\) Rule](http://www2.epa.gov/lead/lead-renovation-repair-and-painting-program-rules) (<http://www2.epa.gov/lead/lead-renovation-repair-and-painting-program-rules>). Improperly-conducted painting, renovation, and repair activities can harm children's health and ability to learn by creating hazardous lead dust when surfaces with lead paint, even from many decades ago, are disturbed.

Caregivers should be trained not only to identify potential sources of lead but also what kinds of painting, repair, and renovation tasks are subject to the RRP rule and how to comply with this vital health and safety requirement. The rule, effective as of April 22, 2010, requires workers to be certified and trained in the use of lead-safe work practices, and requires renovation, repair, and painting firms to be EPA-certified.

Training for (xii) Caring for children with special health care needs, mental health needs, and developmental disabilities

HHS states:

Staff should obtain appropriate training in order to include children with special needs, such as children with severe disabilities and children with special health care needs such as chronic illnesses, into child care settings.
(P 29469)

Comments:

The definition of 'children with special needs' should explicitly include children suffering from chronic health conditions: elevated blood lead levels (EBLLs) as well as asthma.

Thus, health and safety training must include understanding environmental triggers for asthma attacks and sources of lead exposure as well as proven competence in preventing potentially harmful environmental exposures. This training should also address the inclusion of and provision of services to lead-exposed children.

Training for (xiii) Child development

HHS states:

. . . we propose to add § 98.41(a)(3)(xiii) child development, including knowledge of the stages and milestones of all developmental domains for the ages of children enrolled in the facility, in the list of health and safety training requirements. In addition to being integral to professional development, child development is an essential component for the health and safety of children, both in and outside the child care setting.
(P 29469)

And

Child development training is also an important component of health and safety because it equips child care providers with the information necessary to recognize any significant developmental delays such as autism spectrum disorders, motor delays, or other conditions.
(P 29470)

Comments:

We agree. We also believe that it is vital that caregivers are trained not just in recognizing “significant developmental delays” but also in preventing or exacerbating such conditions. This includes understanding the common environmental hazards which can be found in and around the child care setting as well as steps to eliminate or minimize these hazards.

E. § 98.41(d) Monitoring

HHS proposes amending § 98.41(d) to further clarify how monitoring to assure compliance with State and local health and safety requirements. (P 29495)

We urge that this compliance and monitoring process include certification by providers that all repairs, painting, and renovations have complied with the EPA [Renovation, Repair, and Painting \(RRP\) Rule](http://www2.epa.gov/lead/lead-renovation-repair-and-painting-program-rules) (<http://www2.epa.gov/lead/lead-renovation-repair-and-painting-program-rules>). Improperly-conducted painting, renovation, and repair activities can harm children’s health and ability to learn by creating hazardous lead dust when surfaces with lead paint, even from many decades ago, are disturbed. The rule, effective as of April 22, 2010, requires workers to be certified and trained in the use of lead-safe work practices, and requires renovation, repair, and painting firms to be EPA-certified.

F. § 98.51(a)(2)(iv) Implementation of professional development systems

HHS writes:

We propose to add new paragraph 98.51(a)(2)(iv) to include implementation of professional development systems in the list of quality improvement activities. We believe these activities are important to ensure a well-qualified child care workforce and propose that professional development systems contain the following five elements:
(1) **Core knowledge and competencies** to define what the workforce should

know (content) and be able to do (skills) in their role working with children and their families; . . .
(P 29477)
(emphasis added)

We urge that children’s environmental health, their unique vulnerabilities, their differing exposures and health outcomes compared to adults, common environmental toxicants, and how to prevent or limit exposures to common environmental toxicants be a required part of “Core knowledge and competencies.”

G. § 98.54 Restrictions on Use of Funds regarding Facility Remodeling

The Department proposes to modify §98.54 to expand what is considered ‘minor remodeling’ and would therefore be eligible for CCDF funds.

We support this change, recognizing that proper maintenance and repairs are vital to assuring a healthy and safe facility. We urge HHS to allow funds to be used for any and all modifications needed to ensure the health and safety of children, including lead hazard control, repairs for water leaks that may lead to mold, installation of carbon monoxide alarms, radon mitigation, and repairs and changes that would support Integrated Pest Management (but not to include routine pesticide applications).

The Department should also require that all ‘remodeling’ in pre-1978 buildings that is supported by CCDF funds must be required to comply with the EPA [Renovation, Repair, and Painting \(RRP\) Rule](http://www2.epa.gov/lead/lead-renovation-repair-and-painting-program-rules) (<http://www2.epa.gov/lead/lead-renovation-repair-and-painting-program-rules>). Improperly-conducted painting, renovation, and repair activities can harm children’s health and ability to learn by creating hazardous lead dust when surfaces with lead paint, even from many decades ago, are disturbed. The rule, effective as of April 22, 2010, requires workers to be certified and trained in the use of lead-safe work practices, and requires renovation, repair, and painting firms to be EPA-certified.

We would also support allowing funds to be used for remediation of child care facilities and homes to provide assistance to existing or potential providers, such as in cases when the cost of repairs or remediation are a barrier to providing an environmentally-healthy setting and thus meeting CCDF requirements.

H. § 98.33 Consumer education

HHS writes that changes to § 98.33 will improve the amount and sources of information available to parents and the general public, including “consumer education information that will promote informed child care choices,” “Provider-specific information about any health and safety, licensing or regulatory requirements met by the provider,” and “A description of health and safety requirements and licensing or regulatory requirements for child care providers.”
(p 29494)

We strongly support providing additional information to parents and the general public about environmental health and safety. We urge the Department to incorporate in this section the same

recommendations made in our comments in the previous sections, so that the consumer education information provided reflects the environmental health recommendations made in our comments regarding § 98.41 *Building and physical premises safety*, § 98.41, *Minimum health and safety training*, and § 98.54 Restrictions on Use of Funds regarding Facility Remodeling.

It is important to provide educational information regarding exposure to lead and other environmental hazards, their impact on health and educational outcomes, and the status of child care providers in protecting environmental health in their care setting, both in terms of public health as well as to support families in making informed choices about child care.

A child care program that exposes children to preventable, harmful environmental exposures or whose staff does not know how to identify and prevent such exposures is not a high quality child care. Providers who take positive steps to provide healthier environments for children deserve recognition.

We appreciate the opportunity to comment on these important regulations and we commend HHS for its leadership in assuring healthy and safe child care settings. We look forward to updated regulations that reflect current science by recognizing and protecting children's unique vulnerabilities and exposures in their environments. We share HHS's goal of creating early environments that are safe, healthy, and allow all children to thrive.

We are happy to answer any questions and provide additional information. Thank you.

Sincerely,

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