

Questions & Answers from ARP Webinars

May 2021

In March 2020, the co-authoring organizations identified above, along with additional partners and presenters, held several webinars on the potential impact of child care relief for families, programs, and providers across states and settings.

- › [Spend Every Dime: How \\$40 Billion Can Change Child Care](#). March 25, 2020.
- › Understanding Federal Funding: What's In It for Family Child Care. March 27, 2020. Recordings in [English](#) and [Spanish](#).

Attendees put many great questions into the chats, and the answers provided here represent our best current understanding regarding the intent and goals of the three pandemic relief packages (CARES, CRRSA, and ARP). These answers are based on understanding of the [CCDBG law](#) and [regulation](#), as well as the [Office of Child Care FAQs](#) but are not official guidance nor do they reflect a legal interpretation of the law.

Wherever possible we have pointed to the language of the relevant law or existing regulation to help explain our answers. We expect that the Office of Child Care will put out guidance on ARP CCDBG and stabilization funds, in addition to their [April 14 Information Memorandum on CRRSA](#), which will provide additional clarity on how these funds may be used. In addition, these federal funds will be distributed through state child care agencies, and those state agencies will make decisions about the use of funds, including the design of stabilization grants.

This FAQ document, based on questions from the March webinars, is organized in the following categories:

- › Considerations for How the Child Care Workforce and Families Will Benefit
- › Considerations for Provider Applications and Support
- › Considerations for Head Start and Early Head Start
- › Additional Considerations for Uses of the Funds
- › Considerations for State Timelines and Decision-Making

If you have additional questions, please reach out to advocacy@naeyc.org

Considerations for How the Child Care Workforce & Families Will Benefit

1. How can the Child Care and Development Block Grant (CCDBG) and relief funds improve wages and benefits?

Compensation, including wages and benefits, can be supported with CCDBG base funds, CARES, CRRSA, ARP CCDBG, or stabilization grant funds, within the limits of each type of funding.

CCDBG funding under current rules and the language of the various relief funds are all very flexible and can be used for direct grants and/or contracts to educators or providers/programs with requirements that the funds be used for compensation (including family child care educators paying themselves), increased payment rates that include increased compensation, or enhanced bonuses tied to the pandemic, qualifications, or other factors. The relief packages also note that States, Territories, and Tribes are encouraged to place conditions on payments to child care providers that ensure that child care providers use a portion of funds received to continue to pay the salaries and wages of staff.

Stability funds must be distributed as grants to providers/programs, and the language emphasizes compensation in the allowable uses (Section 2202, paragraph (e)(1)(A)) and the certifications required in the application process (paragraph (d)(2)(D)(II)), where it states that programs receiving funds must not reduce compensation (“will pay not less than the full compensation”).

Expenses covered by stabilization grants must be based on “provider’s stated current operating expenses, including costs associated with providing or preparing to provide child care services during the COVID-19 public health emergency,” so improved compensation must be reflected in those expenses in order to be an allowable expense. [Note: the Office of Child Care may provide guidance on the definition of “current operating expenses.”]

2. Which families can be served with COVID relief funds?

The CARES, CRRSA, and ARP CCDBG language waives the quality and direct service set-asides, giving states flexibility to use the funds in any way allowable under regular and emergency CCDBG rules. The language in each relief package indicates that states are authorized to use funds for assistance to essential workers, without regard for their income eligibility, but it does not limit the use of the funds to that purpose. States may also choose to increase eligibility to serve families that were not previously being served.

3. Which child care providers are eligible? Will the funds be for family child care? Will license-exempt providers be eligible? Will family, friend and neighbor (FFN) providers be eligible? Are religious providers eligible? Are there specific (different) criteria that must be met by programs that don’t have subsidy eligible families?

The intent of the child care relief is to stabilize the whole child care sector, which means broad eligibility within licensed, regulated, and registered programs; there are also opportunities for legally unlicensed/license-exempt child care programs. Each state will develop their own eligibility approaches as well as application processes and procedures. Both the relief funds for CCDBG, which may be used for grants, and the new child care stabilization grant funds, will be administered by the existing Lead Agency, as previously identified by a state in their child care state plan. Contact information for each lead agency can be found [here](#).

An “eligible child care provider” is defined in the federal CCDBG law (Section 658P) as:

(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that-

(i) is licensed, regulated, or registered under State law as described in section 658E(c)(2)(F)*; and

(ii) satisfies the State and local requirements, including those referred to in section 658E(c)(2)(I);

applicable to the child care services it provides;

or

(B) a child care provider that is 18 years of age or older who provides child care services only to eligible children who are, by affinity or consanguinity, or by court decree, the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece, or nephew of such provider, if such provider complies with any applicable requirements that govern child care provided by the relative involved.

The new stabilization funds have this eligibility language:

An “eligible child care provider” is:

An eligible child care provider as defined in section 658P of the Child Care and Development Block Grant Act of 1990; or

A child care provider that is licensed, regulated, or registered in the State, territory or Indian Tribe on the date of enactment of this Act and meets applicable State and local health and safety requirements.

*Section 658E(c)(2)(F) of the CCDBG law also states:

(ii) License Exemption.—If the State uses funds received under this subchapter to support a child care provider that is exempt from the corresponding licensing requirements described in clause (i), the plan shall include a description stating why such licensing exemption does not endanger the health, safety, or development of children who receive services from child care providers who are exempt from such requirements.

4. Will these sources of funding also apply to wrap-around care for school-age children?

Children up through age 12 are eligible for CCDBG services. If the program site is eligible (please see above), then school-age children can be served. Programs that meet the eligibility requirements may also be eligible to apply for stabilization funds.

5. How can family child care providers ensure that they are included in efforts to spend these funds?

We believe it is critically important for state decision-makers to engage with the provider community, across a diverse and representative group of family child care programs and center-based programs. State decision-makers can look to professional associations at the state and local level to do this meaningfully.

6. Under the stabilization grants, what will be the size of each grant to a child care program?

The law states:

“The amount of such a subgrant to a qualified child care provider shall be based on the provider’s stated current operating expenses, including costs associated with providing or **preparing to provide child care services** during the COVID-19 public health emergency, and to the extent practicable, cover sufficient operating expenses to ensure continuous operations for the intended period of the subgrant...” (Sec 2202 (d)(2)(C))

States will decide the actual amount of grants, including the length of time covered, and any paperwork or reporting requirements for applicants.

Considerations for Provider Applications & Support

1. How and when can providers apply for funds?

States have received their allocations of funds from both the CRRSA and the CCDBG ARP. Each state will develop their own application processes and procedures. Those decisions, and notification of those opportunities, will happen at different times in each state.

Both the increased funds for CCDBG, which may be used for grants, and the new child care stabilization funds, will be administered by the existing “lead agency” as previously identified by a state in their child care state plan. Contact information for each lead agency can be found [here](#).

2. How may states use the 10% administrative set aside in the stabilization funds. Are electronic system updates and other costs an allowable use?

States can use up to 10 percent of their allocated stabilization grant funds for administrative activities that include administration of the grants (like hiring additional staff), publicizing and conducting outreach to ensure all eligible providers know how to apply for the stabilization grants, conducting activities to build the supply of providers, and establishing a an application web site for providers with required certifications. (Section 2202, paragraph (d)(2)(D)(i) of the Act.) If systems are needed to do these activities, it is possible that they will be allowable uses of the administrative funds.

States can also use portions of the relief funds for technical assistance to providers to help them apply for funds.

3. Are these grants or are these loans?

The new child care stabilization funds are designed to be grants directly to providers to cover current operating expenses. Supports through CCDBG (separate from the stabilization fund) could be grants, loans, contracts, or direct subsidy payments and states will decide this.

4. What are the tax implications?

Tax situations are very unique to individuals, businesses, and organizations, so it is important to ensure program directors and individual educators have access to support from accountants, tax volunteers, the IRS, and others who can make sure any federal or state relief received in the context of the pandemic is appropriately accounted for. While much of the relief was intended by Congress to be exempt from taxation (such as the PPP loans, which—when even a portion of which is forgiven—are not considered federally taxable income), states may make different decisions, which is why confirming programs’ unique situations is crucial.

As ACF noted in their CARES FAQ, however, “the \$3.5 billion in supplemental CCDF CARES Act funding is subject to the same tax rules as regular CCDF funding. In other words, there is nothing in the CARES Act that specifically exempts CCDF CARES Act funding from taxation. State tax rules vary by State.” As programs navigate tax implications, we also note that there are implications for individuals (educators and family members) regarding access to benefits. Guidance and resources are needed from the federal level, along with a recognition that state issues and decisions may differ, with substantial and inequitable impacts on our field.

Considerations for Head Start & Early Head Start

1. Are Head Start and Early Head Start programs eligible?

The American Rescue Plan Act includes \$1 billion for Head Start. The U.S. Secretary of Health and Human Services will allocate funds to Head Start agencies for one-time grants. The grant amount will be based on a formula, according to the law: “an amount that bears the same ratio as the portion available for allocations as the number of enrolled children served by the Head Start agency bears to the number of enrolled children served by all Head Start agencies.” We encourage you to refer to the federal Office of Head Start <https://eclkc.ohs.acf.hhs.gov/>.

If Head Start and Early Head Start programs are eligible to participate in CCDBG or meet the definition of an eligible

program under the stabilization grant, they are eligible to receive funds under each relief package and through the stabilization grant.

2. Can ARP funds be used to support or expand Early Head Start-Child Care Partnerships?

The CCDBG funds in CARES, CRRSA, and ARP allocated to each state could be used for any of the uses of the CCDBG law, including policy changes and investments that would support Early Head Start-Child Care Partnerships. This could include increasing subsidy payment rates, aligning family eligibility, and assisting area child care programs (centers and family child care) to become licensed to meet the [eligibility for Partnership](#).

Additional Considerations for Uses of the Funds

1. Can funds be used for mental health services? Does that also include related services like providing an EAP type program to providers?

ARP states that one of the allowable uses of stabilization grants to programs is “mental health supports for children and employees.” Section 2202, paragraph (e)(1)(F). Grants must be based on current operating expenses, “including costs associated with providing or preparing to provide child care services during the COVID-19 public health emergency” (emphasis added). If a provider has an existing relationship with mental health consultants and/or benefits like employee assistance programs, they should include that in current operating expenses. If a provider plans to provide mental health services as a response to the provision of child care during the pandemic, those costs may also be included in the grant amount. States will develop guidance on allowable costs.

2. How can funds be used for facilities?

CCDBG funds can be used for minor repairs. According to regulations ([45 CFR Sec 98.56](#)):

“For State and local agencies and nonsectarian agencies or organizations, no funds shall be expended for the purchase or improvement of land, or for the purchase, construction, or permanent improvement of any building or facility. However, funds may be expended for minor remodeling, and for upgrading child care facilities to assure that providers meet State and local child care standards, including applicable health and safety requirements. **Improvements or upgrades to a facility which are not specified under the definitions of construction or major renovation at § 98.2 may be considered minor remodeling and are, therefore, not prohibited.** (emphasis added)

(2) For sectarian agencies or organizations, the prohibitions in paragraph (b)(1) of this section apply; however, funds may be expended for minor remodeling only if necessary to bring the

facility into compliance with the health and safety requirements established pursuant to § 8.41.”

Under the regulations, construction means the erection of a facility that does not currently exist. Major renovation is defined as (1) structural changes to the foundation, roof, floor, exterior or load-bearing walls of a facility, or the extension of a facility to increase its floor area; or (2) extensive alteration of a facility such as to significantly change its function and purpose, even if such renovation does not include any structural change. (See [45 CFR Sec 98.2](#))

In the child care stabilization grant fund, an allowable use of the grant fund is for providers (including centers, and licensed or registered family child care providers) to cover costs of facility maintenance or improvements.

The law does not define “facility maintenance” or “improvements” so the Office of Child Care may issue guidance to help states better understand allowable uses of funds in this way.

However, it is important to note that states will set their own rules and requirements for the stabilization grants, and that (without regulation from HHS) they can define maintenance and improvements in whatever way makes the most sense for their state. As states are developing these definitions, it is important to ensure that both centers and family child care providers can access any funds that are designated for maintenance or improvement—meaning that allowable uses must be appropriate for home settings as well as for other settings.

The law also allows for grants to reimburse providers for costs incurred or fully paid (“obligate or expend”) before the law was enacted, if they were put in place to address the Covid-19 crisis. As many providers made significant facility improvements or changes during 2020 in response to the pandemic, states should consider reimbursement for these costs as part of the design of their stabilization grants.

Considerations for State Timelines & Decision-Making

1. What is the timeline for funds going out to states? Are there differences for fund availability between the stabilization fund and CCDBG?

Stabilization funds are required to be available to states by September 30, 2021, but ACF has said that they will be available to states by late April 2021. All other relief funds have been made available to states and are available to states to draw down quarterly.

This table shows the dates by which states must obligate and liquidate the different funding streams (including CARES and CRRSA dollars as well).

Child Care COVID Funding

How long do states have to spend their child care relief funds?



2. When are the state's plans due on how they will use the ARP funds?

There are no state plans required by the ARPA. States were required to submit plans for how they plan to spend the CRRSA funds. The plans can be found [here](#), and an analysis of the plans can be found [here](#).

3. How is supplantation of funds defined?

CARES, CRRSA, and ARP CCDBG and the new stabilization funds all include specific language that prevents states from using new federal funds to substitute for ("supplant") state funds currently used for child care subsidies. The language in each law is slightly different:

CARES: funds "shall be used to supplement, not supplant State, Territory, and Tribal general revenue funds for child care assistance for low-income families..."

CRRSA: funds "shall be used to supplement, not supplant State, Territory, and Tribal general revenue funds for child care assistance for low-income families . . ."

ARP CCDBG: funds "shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide child care services for eligible individuals."

ARP Stabilization funds: funds "shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide child care services for eligible individuals."

The Congressional Research Service has written on this question, saying:

"... CCDBG provisions in annual appropriations acts typically include similar provisions. Past guidance from HHS suggests that this requirement would likely be considered satisfied if a state, territory, or tribe does not make any administrative or legislative changes to reduce general revenue spending after the enactment of a new CCDBG appropriation. An action occurring after this date could potentially be considered a violation of the non-supplantation requirement, unless the lead agency demonstrates that the reduction was not due to increased federal CCDBG funds."

4. Do states need to submit waivers that are not specified in the ARP, for example, if a state wants to waive co-payments for ALL families?

Each of the relief packages is clear that states do not need to amend their state plan in order to use the funds.

States can apply for a waiver from federal requirements if the waiver meets various requirements, including but not limited to a waiver in extraordinary circumstances (such as the Covid-19 crisis) ([See Sec 98.19](#)). To waive any policy, including co-payments for families receiving child care assistance, Lead Agencies must apply for a waiver from the Office of Child Care, which may need to be renewed periodically. Please see questions 8 and 13 of this Office of Child Care [FAQ Document](#).

5. Do the same health and safety standards and/or requirements of CCDBG apply to anything funded with the ARP or other funds?

While the ARP language does not waive any health and safety requirements, states may request waivers for specific health and safety provisions from the Office of Child Care.

6. Do states need to spend the stabilization funds within nine months?

The ARP states, “. . . The lead agency shall notify the Secretary if it is unable to obligate at least 50 percent of the funds received pursuant to subsection (c) that are available for subgrants described in this paragraph within 9 months of the date of enactment of this Act.” Note that the law does not say that states must spend 50 percent of the funds within the first nine months of the date of enactment (March 11, 2021), but rather that if they cannot they must alert the Secretary of Health and Human Services. The law does not provide for any consequences of such a report, such as loss of or redistribution of funds.

7. If early childhood programs received CARES Act funding in 2020, will they need to account for those dollars and the expenses that were covered before they access ARP stabilization funds?

The language of the law is clear that the lead agency shall “make subgrants to qualified child care providers . . . regardless of such a provider’s previous receipt of other Federal assistance, to support the stability of the child care sector during and after the COVID-19 public health emergency.” (Italics added). It seems that the intent of the law, in keeping with a goal of equitable, simple access to the stabilization grants, is such that programs accessing stabilization funds should not be required to provide an accounting of the dollars they received to support their program through CARES, nor CRRSA, nor the Paycheck Protection Program, as each of these fall under the category of “Federal assistance.”

8. For the stabilization fund, do all of the allowable uses need to be included in the grants, or can states narrow down to a sub-set of these uses based on their own priorities and needs?

The language of the law states that “a qualified child care provider that receives funds through such a subgrant shall use the funds for at least one of the following” allowable uses. This language indicates that it is the provider—and not necessarily the state—who can choose to use the funds for a sub-set of the allowable uses. The state can, however, make decisions about how to structure their application process, though the decisions of the state are, by design, focused on the amount of the grant (based on current operating expenses) and the duration of the grant, thereby providing the flexibility for providers to use the funds based on their priorities and needs.