ADMINISTRATION FOR
CHILDREN & FAMILIES
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FEB 0 5 2019

Reeva Murphy, Deputy Commissioner
Vermont Department for Children and Families
280 State Drive, NoB 1 North
Waterbury, Vermont 05671

Dear Deputy Commissioner Murphy:

This letter is a follow-up to your recent conditional approval letter for your FY2019 – FY2021 Child Care and Development Fund (CCDF) Plan which indicated that Vermont is on a Corrective Action Plan (CAP) for the equal access provisions at 45 CFR 98.45. Specifically, Vermont's payment rates as reported in question 4.3.1 and described in question 4.4.1b of your Plan were found to be inadequate based on the results of your most recent market rate survey (MRS).

Lead Agencies are required to certify in the Plan that the payment rates for the provision of child care services are sufficient to ensure equal access for eligible families in the area served by the Lead Agency; therefore child care services provided by the Lead Agency must be comparable to those provided to families not eligible to receive CCDF assistance.

The Plan requires the Lead Agency to provide a summary of data and facts to demonstrate how its payment rates ensure equal access. The Plan requires the Lead Agency to provide a summary of facts relied on to determine that its payment rates ensure equal access as part of this certification of equal access. The preamble to the final rule (81 FR 67512), indicates that a benchmark for adequate payment rates is the 75th percentile of the most recent MRS. The 75th percentile is the number separating the lowest 75 percent of rates from the highest 25 percent. Setting rates at the 75th percentile would ensure that eligible children have access to three out of four child care slots.

The 75th percentile benchmark applies to the base rates. Base rates are the lowest, foundational rates before any differentials are added (e.g., for higher quality or other purposes). Further, base rates must be sufficient to ensure that minimum health and safety and staffing requirements are covered. As noted in the preamble to the final rule (FR 81 67512), where updated data from a MRS indicates that prices have increased, Lead Agencies must raise their rates as a result.

Key principles of the CCDF are to: (1) provide equal access to child care for children receiving child care assistance; and (2) ensure parental choice by offering full range of child care services. Current payment rates for CCDF-funded care based on the most recent MRS in many cases are too low to support equal access; thus undermining these principles. Congress further reinforced these equal access principles with the historic increases in CCDF funding in the Appropriations Act of 2018 and 2019. These funding increases were for the purposes of supporting the full implementation of the CCDBG Act of 2014, including activities to improve the quality and safety of child care programs, increase provider reimbursement rates, and ensure that health and safety standards are met; and ensuring that Lead Agencies are fully in compliance with the CCDBG Act.

In determining compliance with the Act for the equal access provisions, the Office of Child Care (OCC) reviewed all of the states with payment rates below the 75th percentile benchmark. Of those states, the half with the lowest payment rates were placed on a CAP. The states placed on a CAP all had payment rates below the 25th percentile for either some or all categories of care, and will need to increase the base payment rates up to at least the 25th percentile to come into compliance with the equal access provisions by September 30, 2019 (and avoid a penalty). OCC recognizes that given budgets and other constraints, states with very low rates cannot meet the 75th percentile benchmark immediately. In order to come into compliance for this CCDF Plan cycle, OCC is requiring states with very low rates to raise these rates to at least the 25th percentile. However, the 25th percentile is not to be viewed as a benchmark or a long-term solution to gauge equal access, and will not be sufficient for compliance in future plan cycles.

OCC anticipates that in future Plan cycles it will continue to take action against states with the lowest rates in an effort to keep payment rates moving upward toward ensuring equal access.

We look forward to working with you to ensure that payment rates support equal access so that that children receiving CCDF have access to quality child care services.

If you have any questions, please contact your Regional Program Manager.

Sincerely,

Shannon Christian
Director
Office of Child Care

cc: Melissa Riegel-Garrett, Policy Director
Anne Rada, Child Care Benefits Administrator
Shireen Riley, Regional Manager, Office of Child Care Region I