

**The Southern Regional Task Force on Child Care
Action Plan to Improve Access to Child Care Assistance for Low-Income Families in the South:
An Analysis of Legal Issues**

Summary Chart

**Prepared by Center for Law and Social Policy for
the Southern Institute on Children and Families**

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Goal/Action Step	Use of CCDF Funds	Use of TANF Funds	Comments
Goal 1: Federal, state, local and private funds should be sufficient to meet 100% of need for direct child care assistance, based on initial eligibility levels at 85% of the state median income. Redetermination levels should allow families to retain child care assistance until they reach 100% of the state median income.	CCDF funds may only be used for families with incomes below 85% of state median income.	TANF funds used for child care are generally restricted to “needy families.” The state sets its own reasonable definition of needy families. It is unclear whether a state could elect to set a definition as high as 100% of state median income.	The principal issue here is likely to be need for increased resources to expand services to potentially eligible population.
1.1. Educate federal and state policymakers on the need for action.	No legal barrier.	No legal barrier.	
1.2. Educate the business community on the need for leadership in achieving state, federal and community resources to meet 100% of need.	No legal barrier.	No legal barrier.	

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1.3. Increase federal funding for the Child Care and Development Fund to fulfill current policy allowing federal matching funds for child care assistance up to 85% of the state median income.	CCDF funding levels will be determined during CCDF reauthorization in 2002.	TANF funding levels will be determined during TANF reauthorization in 2002.	
1.4. Increase state funding to provide child care subsidies to all eligible families who seek child care assistance.	No legal barrier.	No legal barrier.	
1.5. Mobilize federal, state and community resources in support of families who need child care assistance.	No legal barrier.	No legal barrier.	
GOAL 2: States and communities should broaden their child care eligibility and subsidy policies to meet the economic, work and education needs of families.	See discussion of individual action steps.		
2.1. Establish co-payments not to exceed 10% of gross family income.	No legal barrier.	No legal barrier.	
2.2. Provide child care assistance to students who qualify under the income guidelines.	No legal barrier; state may provide child care services under CCDF to income-eligible students.	No legal barrier, though if child care is provided on ongoing basis to nonemployed individual, it will be considered "TANF assistance" and subject to TANF time limits and other requirements.	

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2.3. Explore broad use of income exemptions to address affordability of child care.	Federal law does not define "income." State may develop its own reasonable definitions of countable income and exemptions.	Federal law does not define "income." State may develop its own reasonable definitions of countable income and exemptions.	
2.4. Eliminate asset testing (e.g. automobile or savings account) from criteria for child care assistance.	No legal barrier. State may decide whether to have an asset test for CCDF.	No legal barrier. State may decide whether to have an asset test for TANF.	
2.5. Index income eligibility levels for inflation.	Permissible so long as income eligibility does not exceed 85% of state median income.	No legal barrier.	
GOAL 3: Outreach initiatives should be designed and aggressively implemented to assure that families have accessible and easy-to-understand information on child care assistance and are provided assistance in applying.	See discussion of individual action steps.		
3.1 Provide information on child care subsidies through multiple sources, venues and the media.	No legal barrier.	No legal barrier.	
3.2. Ensure that information is accurate, family friendly, employer friendly, culturally sensitive and provided in multiple languages, as appropriate.	No legal barrier.	No legal barrier.	

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3.3. Present information in a manner that would remove the stigma associated with receiving subsidies.	No legal barrier.	No legal barrier.	
3.4. Provide literature and assistance to help parents make informed provider choices.	No legal barrier.	No legal barrier.	
3.5. Coordinate ongoing and strategic outreach activities among common organizations and providers.	No legal barrier.	No legal barrier.	
3.6. Offer cross-training and information to providers, community organizations, faith organizations and state agencies to inform them about child care assistance programs and how to assist families in filing applications.	No legal barrier.	No legal barrier.	
GOAL 4: The child care application and redetermination processes should be uncomplicated and family friendly.	See discussion of individual action steps.		
4.1. Simplify applications for child care assistance.	Federal law leaves content of application form to state discretion, so state can implement simplified form. Key federal eligibility requirements that must be determined are: <ul style="list-style-type: none"> • Presence of a child and age of child under age 	Federal law leaves content of application form to state discretion, so state can implement simplified form. Key federal eligibility requirements that must be determined are: <ul style="list-style-type: none"> • Presence of a child; 	

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	<ul style="list-style-type: none"> 13 or meeting an allowable exception; • Living arrangement, i.e., that child is living with parent or person acting in <i>loco parentis</i>; • Family size; • Basis for needing care, i.e., work, education, protective services; • Income; • Extent of need, i.e., hours (or full/part time) need for care; • Residency; • Citizenship/alienage status of child. 	<ul style="list-style-type: none"> • Needy family; • Need for care; • That family members are not ineligible immigrants. <p>(State will likely want additional information, e.g., income, family size, etc.)</p>	
<p>4.2. Allow filing by mail, phone, fax or internet.</p>	<p>No legal barrier to allowing initiation of process through such vehicles.</p>	<p>No legal barrier to allowing initiation of process through such vehicles.</p>	
<p>4.3. Minimize requests for documentation at initial application and utilize documents already on file.</p>	<p>Federal law does not explicitly establish verification requirements for child care services under CCDF, with the exception of the need to verify that a child is a citizen or qualified alien.</p>	<p>Federal law does not explicitly establish verification requirements for child care services under TANF with the exception of the need to verify citizenship/alienage status.</p>	

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4.4. Provide applications at multiple sites.	No legal barrier.	No legal barrier.	
4.5. Offer non-conventional hours of operation for eligibility offices and provide toll-free phone lines to include evening and weekend hours.	No legal barrier.	No legal barrier.	
4.6. Explore presumptive eligibility or otherwise provide immediate eligibility contingent upon final approval.	State may provide for presumptive eligibility if it is for a limited number of weeks and a good faith eligibility determination was made under presumptive eligibility criteria and procedures as described in the state's CCDF plan. If subsequent verification is never received or results in a determination that the family was ineligible, state must terminate services at the earlier of the point of determining ineligibility or the end of the presumptive eligibility period.	Federal law does not address presumptive eligibility; state may develop own reasonable policy so long as funds are not spent in violation of federal law.	
4.7. Eliminate requirements for a face-to-face interview both for initial application and for redetermination.	No legal barrier; no federal requirement for face-to-face interview.	No legal barrier; no federal requirement for face-to-face interview.	

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4.8. Provide consultation on making appropriate choices when excessive requests for provider changes are filed.	No legal barrier.	No legal barrier.	
4.9. Establish a 12-month redetermination period where there are no changes in income or job status.	Federal law does not specify a particular time frame for redeterminations. State has flexibility but must have rational basis and programmatic reason for period chosen.	Federal law does not specify a particular time frame for redeterminations. HHS indicates it would be “prudent” for states to conduct redeterminations at least annually.	
4.10. Continue eligibility for full subsidy for 12 weeks if family loses employment but can document that a job search is underway.	State may include a reasonable “job search” period within its definition of “working” for purposes of CCDF eligibility.	State may use TANF funds to provide child care for job search. State may treat child care for a 12-week job search as a nonrecurrent short-term benefit (and therefore need not consider it TANF “assistance”).	
GOAL 5: Establish a coordinated, seamless eligibility system so that funding sources are invisible to families and support continuity of child care.	See discussion of individual action steps.		
5.1. Eliminate the need for families to reapply when eligibility categories change by automatically searching to exhaust all eligibility categories before closing cases.	No legal barrier.	No legal barrier.	

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5.2. Explore the potential for policy and procedural changes to achieve linkages with or combined applications for child care assistance, Head Start, Pre-K and Title I.	Multiple issues, many of which are not principally legal, are not discussed within this analysis.	Multiple issues, many of which are not principally legal, are not discussed within this analysis.	
5.3. Continue eligibility in programs with multiple funding sources to assure continuity of care in the event that eligibility has expired or terminated in one program.	State may foster continuity of care as eligibility categories change; whether a particular funding stream can be used depends on reason eligibility is ending.	State may foster continuity of care as eligibility categories change; whether a particular funding stream can be used depends on reason eligibility is ending.	
5.4. Work collaboratively with all public and private programs and funding sources to assure that children receive stable and consistent early child care services.	No legal barrier.	No legal barrier.	
GOAL 6: Establish customer service outcome goals and set standards to ensure that all families are treated with dignity and respect and are served in an efficient manner.	See discussion of individual action steps.		
6.1. Provide professional and well-trained eligibility staff who are culturally and linguistically sensitive.	No legal barrier.	No legal barrier.	
6.2. Facilitate quick eligibility determination through reasonable caseloads and/or administrative structure.	No legal barrier.	No legal barrier.	

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6.3. Conduct periodic, independent and thorough consumer satisfaction assessments, assuring the confidentiality of information collected.	No legal barrier.	No legal barrier.	
6.4. Provide adequate support for child care resource and referral services.	No legal barrier.	No legal barrier.	
GOAL 7: Design the subsidy system so that rate structures assure that families receiving child care assistance have access to all types of child care and disallow charges above established co-payments.	See discussion of individual action steps.		
7.1. States should cap reimbursement rates at no less than the 75 th percentile based on a market rate survey conducted every two years that accurately reflects the price of all types of care in communities across the state.	Biennial market rate survey is required under federal regulations. Setting rates at not less than 75 th percentile encouraged by U.S. Department of Health and Human Services.	State has discretion to determine payment rates for TANF-funded child care.	
7.2. Establish and evaluate reimbursement policies that encourage provider participation and are responsive to family needs.	No legal barrier.	No legal barrier.	

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7.3. Prohibit providers from charging above the established co-payments.	May present legal issue. State must ensure that its payment policies do not violate federal CCDF requirements for parental choice and equal access.	No legal barrier.	
GOAL 8: Create partnerships with employers to expand child care assistance for working families.	See discussion of individual action steps.		
8.1. Educate employers about the bottom line benefits associated with public and private child care assistance.	No legal barrier.	No legal barrier.	
8.2. Enlist business leaders to champion the involvement of southern businesses and to serve as mentors to other businesses.	No legal barrier.	No legal barrier.	
8.3. Provide information to employers on all available tax benefits related to child care assistance, including deductions for donations to tax-exempt child care organizations, capital costs for constructing a child care center and establishing a pre-tax dependent care assistance plan.	No legal barrier.	No legal barrier.	
8.4. Facilitate collaborative initiatives that enable employers to share ideas as well as pool their resources to address child care needs.	No legal barrier.	No legal barrier.	

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8.5. Provide matching funds or other tax or financial incentives for employers to invest in child care.	A state can make CCDF funds available to employers on a matching or unmatched basis for child care services to CCDF-eligible families.	A state can make TANF funds available to employers on a matching or unmatched basis for child care services to TANF-eligible families.	
8.6. Establish incentives for employers to create child care benefit programs for their employees or to contribute to child care purchasing pools in their state or community.	See discussion at 8.5.	See discussion at 8.5.	
8.7. Reduce the administrative burden on employers participating in any joint public/private child care assistance program.	See discussion at 8.5.	See discussion at 8.5.	
GOAL 9: Provide child care assistance to working families through federal and state tax laws.	See discussion of individual action steps.		
9.1. Make the federal child and dependent care tax credit refundable.			Would require change in federal law.
9.2. Establish refundable child and dependent care tax credits in states with income taxes.			Would require change in state law.

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9.3. Raise federal and state child care tax credit expense limits to accurately reflect the price of quality care.			Would require change in federal law.
9.4. Index for inflation the state and federal child and dependent care tax credit income eligibility and expense limits.			Would require changes in federal and state law.
9.5. Ensure that child and dependent care tax credits are clearly identified and easy to claim by filers using either the short or long form.			Would require action by Internal Revenue Service.
9.6. Encourage the use of effective state tax strategies to provide financial support for child care.			Development of state child care tax policies is a matter of state law.
GOAL 10: States should have effective, coordinated systems to guide child care and early childhood policy decisions and direct use of resources.	See discussion of individual action steps.		
10.1. Facilitate greater coordination in eligibility policies across child care and early childhood education programs at state and local levels.	Issues will depend on specific eligibility policies.	Issues will depend on specific eligibility policies.	

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<p>10.2. All southern states and the District of Columbia should participate in a collaborative effort to develop and collect common data elements across states.</p>	<p>No legal barrier to voluntary collection of additional data beyond what is required by federal law.</p>	<p>No legal barrier to voluntary collection of additional data beyond what is required by federal law.</p>	<p>Federal data-collection requirements for CCDF and TANF may be considered during reauthorization of each block grant in 2002.</p>