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To State and Territorial Lead Agencies administering child care programs under the Child Care and Development Block Grant (CCDBG) Act of 1990 as amended, and other interested parties.

Subject Social Security Numbers

References Child Care and Development Block Grant Act, 42 U.S.C. 9859 et seq., 45 CFR 98.71(a)(13), and the Privacy Act of 1974, 42 U.S.C. §205(c)(2)(C)(I) and 5 U.S.C. §552a note.

Purpose To clarify policy regarding limits on the use of Social Security Numbers under the Child Care and Development Fund (CCDF) and the Privacy Act of 1974 (as amended).

Background Since 1993, the Clinton Administration and States have worked diligently to ensure that all eligible persons are enrolled in and have access to federal benefit programs and services, including child care under the CCDF. CCDF child care assistance is a critical support for low-income working families, especially those trying to make the transition from welfare to work. The Administration continues to work with States to reduce and eliminate access barriers to the enrollment in any program of eligible participants, including those in immigrant families.

For example, a recent policy instruction addresses the topic of Social Security Number requests by other Federal programs, including TANF. In September, 2000, DHHS and the U.S. Department of Agriculture issued guidance clarifying that states may not make unauthorized and unnecessary requests for information about citizenship, immigration status, and Social

Security Numbers on applications for Medicaid, the State Children's Health Insurance Program (SCHIP), TANF, and food stamp benefits, and may allow family members to designate themselves as non-applicants. See "triagency guidance" <http://www.hhs.gov/ocr/immigration/triagency.html>.

On August 30, 2000, the DHHS Office for Civil Rights issued guidance that serves as a road map for providing access to federally-funded programs and services by immigrants and citizens who have limited English proficiency, as required by Title VI of the Civil Rights Act of 1964. This guidance is available at <http://www.hhs.gov/ocr/lep/guide.html>.

And, on May 26, 1999, in an immigration access issue not directly related to child care, the Immigration and Naturalization Service (INS) issued comprehensive guidance effective immediately regarding the standards used for making public charge determinations. The public charge guidance was issued to address concerns in immigrant communities about the consequences of participating in public assistance programs such as TANF, Medicaid, and Food Stamps. In that guidance, INS clarified that only the receipt of cash assistance under TANF, SSI, or a State General Assistance Program (or the rare circumstance of institutionalization for long-term care) may be considered in a determination about whether an individual is or is likely to become a public charge. Immigrants who are already legal permanent residents (those who have a "green card") generally are not affected by the public charge issue and public charge is never an issue for immigrants applying for citizenship. Additional information is available at <http://www.ins.usdoj.gov>. We also have worked with States to reduce administrative barriers to participation by eligible families.

Recent information has focused attention on an administrative barrier that does specifically affect child care: U.S. citizen children and other eligible persons who live in immigrant families may be deterred from applying for benefits because they are concerned about responding to certain questions on application forms regarding the disclosure of Social Security Numbers. This concern appears to be caused by uncertainty among immigrant families regarding the confidentiality of information provided to States and fears that information on family members may be provided to the INS.

States, by law, must require this information of applicants as part of the eligibility process for some programs (see the triagency guidance referenced above). However, it appears that some States are requiring disclosure of Social Security Numbers as part of the eligibility process for child care even though there is no statutory authority for requiring this information. States must comply with the Privacy Act when seeking disclosure of an individual's

Social Security Number. Under the Privacy Act, §7(a), States are prohibited from denying an individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his or her Social Security Number unless disclosure is required by federal statute.

Further, Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, and national origin by federal fund recipients. To the extent that State application requirements and processes have the effect of deterring eligible applicants and recipients who live in immigrant families from enjoying equal participation in and access to these benefit programs based on their national origin, States inadvertently may be violating Title VI.

States are also reminded of the Program Instruction issued by the Child Care Bureau on November 25, 1998 (ACYF-PI-CC-98-08). This instruction indicates that only the citizenship and immigration status of the child, who is the primary beneficiary of the child care benefit, is relevant for implementing the verification requirements mandated by 8 U.S.C. 1642.

When a State is not authorized to require an individual to disclose his/her Social Security Number, States may request that individuals voluntarily provide Social Security Numbers. However, under the Privacy Act, any time a State agency requests an individual to disclose his or her Social Security Number, that agency "shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it." (Privacy Act of 1974 §7(b)).

With regard to child care and Social Security Numbers, as indicated in the June 9, 1999 Technical Bulletin #7, "Child Care and Development Fund, Social Security Number: Reporting Guidelines," the requirement for States to report Social Security Numbers was promulgated to allow the Child Care Bureau (CCB) to conduct research on various factors related to the receipt of CCDF child care. It was considered necessary because the Social Security Number is the only unique identifier that remains constant, regardless of the family's residence and across programs. However, in keeping with the limitations on the use of Social Security Numbers, Technical Bulletin #7 also noted that the numbers are only used to assemble data sets and are never linked to individual family identity. (Technical Bulletin #7 is available at <http://www.acf.dhhs.gov/programs/ccb>)

While 45 CFR 98.71(a)(13) requires States to report the Social Security Number of the family head, it is not the intention of the regulation for States to make disclosure of a Social Security Number a requirement and condition of eligibility for child care. In fact, such a policy would be contrary to the

Privacy Act, as noted above. No Federal statute requires applicants to disclose Social Security Numbers for the receipt of CCDF child care assistance.

Rather, §98.71(a)(13) is intended only to require States to submit Social Security Numbers where States have received them because the individual voluntarily supplied the number. As noted above, neither the Department, nor any State, has the authority to require Social Security Numbers as a condition of eligibility under CCDF. Thus, in keeping with the Privacy Act, States must make it clear to CCDF applicants that the provision of a Social Security Number is voluntary and that benefits will not be denied or withheld for the failure to furnish a Social Security Number. States also must clearly inform applicants about how the Social Security Number will be used.

In light of this policy clarification, we provide the following instructions:

Instructions

- (1) State and Territorial Lead Agencies and their subcontractors may continue to include a space for the Social Security Number on applications for child care benefits. However, in the area requesting this information, there must be clear indication that the Social Security Number is optional. The instructions for completing the application must state that the Social Security Number is not required for child care eligibility and that eligibility will not be denied due to the failure of the applicant to provide a Social Security Number. The instructions should also explain how the Social Security Numbers will be used if applicants choose to provide them (e.g. to assemble research data sets that do not identify individuals, or to verify income). In addition, applicants should be informed about State guidelines intended to preserve confidentiality and restrict the sharing of information.
- (2) When a Lead Agency obtains Social Security Numbers voluntarily from applicants for child care benefits, the Lead Agency is required under §98.71(a)(13) to provide the collected Social Security Numbers to the Child Care Bureau in their case-level reports (ACF Form 801, Head of Family Receiving Assistance, item 3, Social Security Number).
- (3) Under the statute and regulations governing the CCDF, Lead Agencies are required to report the total unduplicated number of families and children served. We encourage Lead Agencies to consider instituting unique case identifiers if their State has not done so. Such identifiers will enable Lead Agencies to report an unduplicated count of the families and children served.
- (4) Paragraphs (a) and (b) of section 1137 of the Social Security Act require that all applicants for, and recipients of, benefits under the TANF program

provide their Social Security Number as a condition of receiving such benefits. States do have the flexibility to allow certain family members to designate themselves as non-applicants who are not then required to provide a Social Security Number (see triagency guidance referenced above). However, families who are receiving child care assistance through SSBG or CCDF are not affected by the TANF Social Security Number requirement. This is true even when the SSBG or CCDF funding stream includes transferred TANF funds, as those funds are governed by the CCDF rules.

Questions

Questions and requests for technical assistance should be directed to your ACF Regional Office.

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Administration on Children, Youth and
Families