

Date of Hearing: May 7, 2020

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Eloise Gómez Reyes, Chair
AB 2883 (Quirk-Silva) – As Introduced February 21, 2020

SUBJECT: Childcare services: alternative payment programs: direct deposits: reserve funds

SUMMARY: Makes changes to the California Child Care and Developmental Services Act (CCDSA) regarding administrative and payment processes for Alternative Payment Program (APP) agencies. Specifically, **this bill:**

- 1) Requires that APPs reimburse childcare providers for the maximum certified hours of families with variable schedules or those accessing part-time services.
- 2) Deletes provisions authorizing licensed childcare providers to alter rate levels for subsidized childcare programs once per year, and deletes the requirement to provide the APP and the resource and referral agency with information on any changes in rates.
- 3) Deletes the requirement that an APP verify provider rates at least once per year by randomly selecting 10% of licensed childcare providers serving subsidized families.
- 4) Deletes the requirement that the California Department of Education (CDE) develop regulations for addressing discrepancies in provider rate levels, as specified.
- 5) Requires APPs to provide notice to a childcare provider of any notice of action issued to a family, as well as the effective date of the change, on the same day the notice is issued to the family.
- 6) Requires the CDE, upon the request of a childcare provider, to request that the Controller provide payment via direct deposit into the contractor's account of the financial institution of the contractor's choice, for a contract executed by CDE, as specified.
- 7) Recasts the maximum reserve fund balance for alternative payment model and certificate childcare contracts and authorizes a child development contractor to retain either, whichever is greater:
 - a) 15% of the parts of the contract that is allowed for administration and supportive services, as specified; or,
 - b) \$1,000.
- 8) Makes technical changes.

EXISTING LAW:

- 1) Establishes the CCDSA for the purpose of providing a comprehensive, coordinated, and cost-effective system of child care and development services, as specified, for children from infancy to 13 years of age, and their parents, through full- and part-time programs. (Education Code Section [EDC] 8200 *et seq.*)

- 2) States the intent of the Legislature that all families have access to child care and development services, as specified, regardless of ethnic status, cultural background, or special needs, and the intent that subsidized child care and development services be provided to eligible families, to the extent funding is available. (EC 8202)
- 3) Defines “alternative payments” to include payments made by one child care agency to another agency or provider for the provision of child care and development services, and payments that are made by an agency to a parent for the parent's purchase of child care and development services. (EC 8208 (a))
- 4) Defines “alternative payment program” as a local government agency or nonprofit organization that has contracted with CDE, as specified, to provide alternative payments and to provide support services to parents and providers. (EC 8208 (b))
- 5) Authorizes the use of child care and development funds for APPs in order to maximize parental choice in selecting an appropriate child care setting, and established requirements regarding APPs, as specified. (EC 8220 *et seq.*)
- 6) Requires CDE to contract with local contracting agencies for APPs in order that services can be provided throughout the state, as specified. (EC 8220.1 (a))
- 7) Requires child care providers authorized to provide services using alternative payments to submit to the APP a monthly attendance record or invoice for each child who received services that contains specified information. (EC 8221.5)
- 8) Prohibits an APP from making payments to providers in excess of the rate charged to full-cost families; requires APPs to reimburse providers in accordance with a biennial Regional Market Rate (RMR) survey, as specified; authorizes a licensed childcare provider to alter rate levels for subsidized children once per year; and requires an APP to verify provider rates at least once per year to confirm that the rates reasonably correspond to those charged to nonsubsidized families for equivalent levels of service. (EC 8222)
- 9) Stipulates that the total cost for administrative and support services must not exceed 17.5% of the total contract amount for APPs. (EC 8223)
- 10) Requires an APP to provide notice to a childcare provider at least 14 days before the effective date of any change in reimbursement amounts for childcare services; a change in the hours of care, rates, or schedules; an increase or decrease in parent fees; or a termination of services. (EC 8227.7)
- 11) Requires the CDE to request the Controller to, upon the request of a childcare contractor, make payments via direct deposit by electronic funds transfer through the Financial Information System for California (Fi\$Cal) Project into the contractor's account at the financial institution of the contractor's choice, on or after the date on which the Superintendent of Public Instruction determines that the Fi\$Cal project has been implemented within CDE. (EC 8262.3)
- 12) Prohibits a contractor from retaining a reserve fund balance for alternative payment model child care contracts of more than 2% of the administration and supportive services portion of the contract; or \$1,000, whichever is greater. (EC 8450)

FISCAL EFFECT: Unknown

COMMENTS:

Subsidized child care: California's subsidized child care system is designed to provide assistance to parents and guardians who are working, in training, seeking employment, incapacitated, or in need of respite. This child care is available through a number of programs. Parents participating in California Work Opportunity and Responsibility to Kids (CalWORKs), as well as families transitioning from and no longer receiving CalWORKs aid, can be eligible for child care, which is offered in three "stages." The Department of Social Services (CDSS) administers Stage 1, and CDE administers Stages 2 and 3. CDE also administers non-CalWORKs child care. The largest programs are: General Child Care, which includes contracted centers and family child care homes; the California State Preschool Program, which provides developmentally, culturally, and linguistically appropriate curriculum to eligible three- and four-year olds; and, APPs, which provide vouchers that can be used to obtain child care in a center, family child care home, or from a license-exempt provider.

Certain eligibility and prioritization rules apply to subsidized child care in California. Families are eligible for non-CalWORKs subsidized child care if they meet at least one requirement in each of two areas: eligibility and need. First, they must meet one of the eligibility criteria, which are currently receiving aid, being income-eligible, being homeless, or having children who are recipients of protective services or who have been identified as being, or at risk of being, abused, neglected, or exploited. Secondly, the family must meet one of the "need" requirements which are either the child has to have been identified by a legal, medical, or social services agency or emergency shelter as being a recipient of protective services or being (or at risk of being) abused, neglected or exploited, or the parents need to be employed or seeking employment, engaged in vocational training, seeking permanent housing for family stability, or incapacitated.

Alternative Payment Programs: APPs do not provide direct child development services or programs, but rather assist families in arranging child care services and make payments directly to the child care provider selected by the family. CDE currently contracts with 76 APP agencies to administer three child care programs—CalWORKs Stage 2, CalWORKs Stage 3, and the Alternative Payment program. Of the 76 AP agencies, 51 are nonprofit community-based organizations, 14 are county offices of education, nine are county welfare departments, one is a school district, and one is a city government. These programs receive state and federal funds to provide a variety of supports and payment services that enable eligible low-income families to access subsidized child care using vouchers. More broadly, APPs are charged with increasing parental choice in child care and addressing the individual needs of the families they serve.

Families who are participating in welfare-to-work activities under the CalWORKs program or who are low-income but do not qualify for CalWORKs receive a voucher from an APP and will then typically be referred to a local child care resource and referral (R&R) network. The R&R network, also funded through state and federal dollars, will assist a family by helping identify and access the appropriate and desired child development program for the child or children. Child care vouchers can be used to access child care at a licensed center, family child care home or, from a license-exempt child care provider who meets certain criteria, including passing a background screening. However, due to a lack of state resources and budget cuts, access to programs able to accept vouchers is limited. Should a family be unable to find appropriate care, they will be placed on a waiting list, if one is available. According to the Legislative Analyst's

Office (LAO), in 2019-20, there were a total of 54,340 Alternative Payment voucher slots serving non-CalWORKs children and families, a 21% increase from the prior year.

Variable Schedules: The reimbursement rate for children in APPs is determined by the Regional Market Rate and reflects the cost of living in various regions. The state commissions a survey of private providers every two years to determine the market rate. For families with a variable and/or unpredictable schedule, reimbursement to the provider is based on the actual days and hours for which services were provided as documented on the monthly attendance record or invoice, up to the maximum certified need for services, as documented on the child care certificate and/or Notice of Action. As a provider is unable to predict the actual hours that a child will be in attendance, it is difficult to predict the revenue that will be generated, creating potential negative fiscal impacts. Some argue that this also impacts parental choice as childcare centers may be reluctant to accept a voucher from a family on a variable schedule as the provider cannot count on the spot being used on a regular basis and thus, the revenue generated.

Need for this bill: When a provider accepts a voucher for a child from a family that is authorized with a variable work schedule, the provider is only reimbursed for the actual time that a child shows up for care. A provider therefore may be reimbursed for less than the amount for which they accepted a voucher. In these instances, though they were reimbursed less, their fixed expenses such as rent and utilities cannot be adjusted, which provides an unexpected fiscal shortfall on the provider. Conversely, with private pay child care, a family pays for their child's "slot," regardless if the child shows up or not. This bill would bring parity to providers accepting subsidized child care, so they will be reimbursed for the full authorized amount and not according to how many hours a child shows up for care.

According to the author, "Family child care business owners that support California's subsidized working families with access to child care and early learning opportunities deserve to be treated the same way as private child care business owners. However, in existing Education Code, there are a number of issues that actually penalize family child care providers."

Double referral: This bill was originally double-referred with the Assembly Education Committee; however, due to the Legislature's unanticipated recess in response to the COVID-19 pandemic and the truncated timeframe in which committees may hear bills, this bill has been single-referred to the Human Services Committee.

RELATED AND PRIOR BILLS:

AB 603 (Quirk Silva), Chapter 706, Statutes of 2017, requires APPs to establish a program of electronic banking for child care providers and to send notice to a provider of changes in specified factors related to child care services and rates.

AB 1106 (Weber), Chapter 716, Statutes of 2017, requires an APP to have no less than 36 months to expend allocated funds and excludes all or part of the basic allowance for housing provided to specified military personnel from counting as income for purposes of determining eligibility for child care and development programs.

AB 1712 (Oberholte), Chapter 324, Statutes of 2016, authorizes child care contractors to use digital signatures and requires that those signatures have the same force and effect as manual signatures, as specified.

AB 271 (Oberholte), Chapter 476, Statutes of 2015, expands the existing authority of APPs and child care providers to use electronic methods for storage of documents or records and use of digital signatures pursuant to current state standards.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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