
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair
2021 - 2022 Regular

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| Bill No: | AB 92 | Hearing Date: | June 23, 2021 |
| Author: | Reyes | | |
| Version: | June 14, 2021 | | |
| Urgency: | No | Fiscal: | Yes |
| Consultant: | Lynn Lorber | | |

Subject: Preschool and childcare and development services: family fees

NOTE: This bill has been referred to the Committees on Education and Human Services. A “do pass” motion should include referral to the Committee on Human Services.

SUMMARY

This bill (1) requires the Department of Social Services (DSS) to convene a workgroup to develop a fee schedule for low-income families, (2) exempts certain low-income families from family fees, and (3) waives family fees for all families until October 31, 2023.

BACKGROUND

Existing law:

- 1) Requires the Superintendent of Public Instruction (SPI) to establish a fee schedule for families using preschool and child care services. (Education Code § 8273)
- 2) Requires, using the most recently approved family fee schedule, families to be assessed a flat monthly fee based on income, certified family need for full-time or part-time care services, and enrollment. (EC § 8273)
- 3) Prohibits the family fee from being based on actual attendance. (EC § 8273)
- 4) Requires the SPI to design the new family fee schedule based on the most recent census data available on state median family income in the past 12 months, adjusted for family size, as specified. Further requires the Superintendent to first submit the adjusted fee schedule to the Department of Finance for approval. (EC § 8273)
- 5) Prohibits the revised fees from exceed 10% of the family’s monthly income. (EC § 8273)
- 6) Exempts the following families from family fees:
 - a) Families receiving CalWORKs cash aid;

- b) Families of children enrolled in a part-day California State Preschool Program; and
- c) Families with children who have been identified as at risk of abuse or neglect, or whose children are receiving Child Protective Services, *may* be exempt from paying a family fee for 12 months. (EC § 8273.1)

ANALYSIS

This bill (1) requires DSS to convene a workgroup to develop a fee schedule for low-income families, (2) exempts certain low-income families from family fees, and (3) waives family fees for all families until October 31, 2023. Specifically, this bill:

Development of a new fee schedule

- 1) Requires DSS, as the “lead agency” for subsidized child care and development programs, to convene a workgroup to develop an equitable fee schedule for families whose adjusted monthly family income is at or above 75 percent of the state median income.
- 2) Requires the workgroup to include parents, childcare providers, advocates, lead agency staff, child development program representatives, and other stakeholders.
- 3) Requires DSS to create a report that includes the proposed fee schedule, the names and association of the workgroup participants, and the criteria used to develop the fee schedule. This bill requires the report to be provided to the Governor, and to the budget and policy committees of both houses of the Legislature.
- 4) Requires DSS to adopt the recommendations in the report prior to the date that the federal government’s allowance for the state to waive family fees for all families expires.
- 5) Prohibits a reduction in family fees collected from being absorbed by direct service contractors or family childcare providers, including family childcare home providers participating in a family childcare home education network and alternative payment program providers. This bill also prohibits the number of childcare vouchers and contracted spaces from being reduced on account of any reduction in the collection of family fees.
- 6) Reduces the amount of a family’s monthly income that the family’s fees cannot exceed, from 10 percent to 1 percent.

Permanent exemption from family fees

- 7) Prohibits a family fee from being charged or assessed to families with an adjusted monthly family income below 75 percent of the state median family income.

Temporary exemption from family fees

- 8) Waives family fees for all families until October 31, 2023.
- 9) Prohibits the cost of waiving family fees from being absorbed by the direct service contractors or family childcare providers, including family childcare home providers participating in a family childcare home education network, and alternative payment program providers. This bill also prohibits the number of childcare vouchers and contracted spaces from being reduced on account of the family fee waiver.

Miscellaneous

- 10) Strikes references to the Superintendent of Public Instruction and instead references "lead agency" to reflect the transfer of child care programs from under the administration of the California Department of Education (CDE) to DSS.

STAFF COMMENTS

- 1) *Need for the bill.* According to the author, "California is one of the most expensive states for parents who need child care services. In Los Angeles County and statewide, the average two-parent working family spends around 20% of their annual income on child care. There is broad consensus among child care experts and economists that spending more than 7% of annual income on child care places economic stress on working families.

"While there are a number of State and Federally funded programs that help families pay for child care, families who need care must still pay family fees which can make subsidized care unaffordable. With limited disposable income, working families struggle to pay high fees and are forced to make difficult decisions about basic needs such as food, shelter, clothing, and keeping up with fee payments. A recent study found that, in Sacramento County, at least 10% of families paying fees are on payment plans for back fees they have been unable to afford.

"These families are at significant risk of losing their subsidized child care which can, in turn, jeopardize their employment or education. This places them at greater risk of reliance on the state's other welfare programs and prevents families from rising out of poverty. As families earn raises and their income rises, so do their family fees, which then erases any economic gains they have made. The current fee structure penalizes families for their hard work.

"Childcare is facing a statewide crisis due to the impacts of the pandemic that has magnified pre-existing disparities and created intense financial insecurity for childcare workers, childcare centers and parents. In light of the public health crisis and economic recession, parents need affordable child care now more than ever in order to continue providing for their families."

- 2) *Family fee schedule.* As noted in the Assembly committee analyses of this bill, the federal Child Care and Development Fund requires states to establish a

sliding fee scale for families that receive childcare services supported by federal funds. The fee: 1) helps families afford childcare and enables choice of a range of childcare options; 2) is based on income and the size of the family and may be based on other factors as appropriate, but shall not be based on the cost of care or amount of subsidy payment; 3) provides for affordable family fees that are not a barrier to families receiving assistance; and 4) at the state's discretion, allows for family fees to be waived for families whose incomes are at or below the poverty level for a family of the same size, that have children who receive or need to receive protective services, or that meet other criteria established by the state.

Existing law requires the SPI to establish a flat monthly fee schedule that differentiates between part-time and full-time care for families using preschool and childcare and development services, based on the most recent census data available on state median family income in the past 12 months, adjusted for family size.

According to the current family fee monthly schedule, effective July 1, 2020, a family of 4 with a monthly income of approximately \$3,500 will be assessed a \$70 monthly family fee for part-time care, or a \$140 monthly family fee for full-time care. A family of 4 with a monthly income of approximately \$6,000 will be assessed a \$236 monthly family fee for part-time care, or a \$471 monthly family fee for full-time care. The current fee schedule will remain in place until the SPI, or DSS pursuant to this bill, designs a new fee schedule.

Reimbursement for a subsidized childcare contract is reduced by the amount of family fees collected by families served, as fees collected from families covers a portion of the cost of care. If a contractor is unable to collect all of the family fees, and performs their due diligence to collect any amounts past due, the contractor is allowed to claim the uncollectable amount as a bad debt expense.

- 3) *Temporary waiver of family fees.* On April 4, 2020, the Governor signed Executive Order N-45-20, enacted in SB 820 (Committee on Budget and Fiscal Review, Chapter 110, Statutes of 2020) to facilitate child care for children of essential critical infrastructure workers by waiving certain programmatic and administrative requirements in response to the COVID-19 pandemic. Amongst the provisions was a waiver of family fees for *all* subsidized children in July and August 2020.

Additionally, SB 820 included a waiver of family fees, from September 1, 2020, to June 30, 2021, for families when all children in the family enrolled in subsidized early learning and care programs remain at home - either for distance learning services when the facility is closed, when all currently enrolled children are not able to receive in-person services due to a public health order, or for families sheltering-in-place due to COVID-19.

Current budget discussions include an extension of the temporary waiver of family fees, from June 30, 2021, to June 30, 2023. Should the final budget agreement include this extension, the identical waiver extension in this bill should be removed, as it would be duplicative and unnecessary.

Although agreement on the final budget has not yet been reached, the CDE recently sent the following message to the field: “The budget conversations between the Legislature and the Governor are ongoing and no version of the budget has been signed by the Governor yet. However, to ensure a greater burden is not placed on the subsidized early learning and care field based on potential changes in the budget, *the CDE asks all contractors to hold off on family fee billing and collection for July 2021, until the final version of the budget is signed by the Governor.* When the final bill language is completed and has been signed by the Governor, the CDE and the California Department of Social Services will issue additional guidance related to family fees.”

- 4) *Permanent exemption from family fees.* This bill prohibits a family fee from being charged or assessed to families with an adjusted monthly family income below 75 percent of the state median family income. It is unknown how many additional families would not be required to pay fees; the Assembly Appropriations Committee estimates ongoing annual costs in the tens of millions of dollars.
- 5) *Transition of childcare programs from CDE to DSS.* The Budget Act of 2020 transitions responsibility for certain child care and development programs from CDE to DSS. Effective July 1, 2021, the following programs will transfer administration from CDE to DSS:
 - a) Stages 2 and 3 of the CalWORKs Child Care Programs;
 - b) General Child Care and Development Programs;
 - c) Alternative payment programs;
 - d) Migrant alternative payment programs;
 - e) Migrant Child Care and Development Programs; and
 - f) Child Care and Development services for children with severe disabilities.

This bill makes technical changes related to this transfer, including updating the requirement for DSS to establish a fee schedule, rather than the SPI.

- 6) *Fiscal impact.* According to the Assembly Appropriations Committee, this bill could impose the following costs:
 - a) Estimated costs of \$33.8 million (General Fund (GF) and federal funds) in fiscal year (FY) 2021-22, to waive family fees for all families from January 1, 2022, (when this bill would go into effect) until June 30, 2022.
 - b) Estimated costs of \$67.9 million (GF and federal funds) in FY 2022-23, to waive fees for all families from July 1, 2022, through October 31, 2022, waive fees for families with incomes below 75% of state median income (SMI) starting in November 2022, and reduce fees for families with incomes between 75% and 85% of SMI starting in November 2022.

- c) Estimated costs of \$67.7 million (GF and federal funds) in FY 2023-24, and annually thereafter, to exempt all families with incomes up to 75% of SMI and reduce fees for families required to pay fees.
 - d) CDE estimates annual administrative costs of \$279,000 (GF) in fiscal year (FY) 2021-22 and \$125,000 (GF) ongoing, for staffing and operating expenses to perform duties to implement the provisions in this bill. This workload includes convening and co-leading a workgroup with CDSS to establish a new family fee schedule, developing a recommendations report in collaboration with CDSS and promulgating regulations, among other tasks.
- 7) *Related legislation.* SB 246 (Leyva) requires DSS to establish a single reimbursement rate for early learning and care programs, including variation for regional costs and quality adjustment factors. SB 246 is pending in the Assembly Education Committee.

SUPPORT

Child Care Resource Center (co-sponsor)
 Child Care Law Center (co-sponsor)
 California Child Care Resource and Referral Network (co-sponsor)
 American Association of University Women – California (co-sponsor)
 California Alternative Payment Program Association
 California Association for The Education of Young Children
 California Catholic Conference
 California Commission on The Status of Women and Girls
 California Family Child Care Network
 Child Action, INC.
 Child Care Providers United
 Children Now
 Early Care and Education Consortium
 EveryChild California
 First 5 Association of California
 First 5 California
 First 5 San Bernardino
 Los Angeles Unified School District
 National Association of Social Workers, California Chapter
 San Bernardino County District Advocates for Better Schools
 San Bernardino; County of
 Silicon Valley Community Foundation
 UDW/AFSCME Local 3930
 Women's Foundation California

OPPOSITION

None received

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