
SENATE COMMITTEE ON HUMAN SERVICES

Senator Hurtado, Chair
2021 - 2022 Regular

Bill No: AB 92
Author: Reyes
Version: June 14, 2021
Urgency: No
Consultant: Taryn Smith

Hearing Date: July 6, 2021
Fiscal: Yes

Subject: Preschool and childcare and development services: family fees.

SUMMARY

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

ABSTRACT

Existing Law:

- 1) Establishes the “Child Care and Development Services Act” (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. (*EDC 8200 et seq.*)
- 2) States Legislative intent 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. (*EDC 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. (*EDC 8208(a)*)
- 4) Defines “alternative payment program” (APP) as a local government agency or nonprofit organization that has contracted with the California Department of Education (CDE), as specified, to provide alternative payments and support services to parents and providers. (*EDC 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 establishes requirements regarding APPs, as specified. (*EDC 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. *(EDC 8220.1(a))*
- 7) Requires the Superintendent of Public Instruction (SPI) to establish a fee schedule for families using preschool and child care services. *(EDC 8273(a))*
- 8) 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, and further requires the flat monthly fee not be based on actual attendance. *(EDC 8273(c))*
- 9) Requires the Superintendent of CDE 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 revised fees not exceed 10 percent of the family's monthly income and the Superintendent must first submit the adjusted fee schedule to the Department of Finance for approval. *(EDC 8273(d))*
- 10) 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, as provided. *(EDC 8273.1)*

This Bill:

- 1) Requires CDSS, 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 CDSS 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. Further requires the report to be provided to the Governor, and to the appropriate budget and policy committees of both houses of the Legislature.
- 4) Requires CDSS 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. As well as, 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.
- 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.
- 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.
- 10) Strikes references to the SPI and instead references "lead agency" to reflect the transfer of child care programs from under the administration of CDE to CDSS.

FISCAL IMPACT

According to an analysis prepared by the Assembly Appropriations Committee, this bill would likely have the following fiscal impact:

- 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 the bill would go into effect) until June 30, 2022.
- 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 percent of SMI starting in November 2022, and reduce fees for families with incomes between 75 percent and 85 percent of SMI starting in November 2022.
- 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 percent of SMI and reduce fees for families required to pay fees.
- 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.

(A proposal to waive family fees through at least October 31, 2024, is being considered in the legislative budget process.)

BACKGROUND AND DISCUSSION

Purpose of the Bill:

According to the author, “the COVID-19 pandemic has only heightened the need for affordable child care for families and communities of color, who are a significant part of California’s essential workforce. 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. AB 92 will create an equitable sliding scale for family fees that will alleviate the burden on working families struggling to pay for child care and early childhood education services. Additionally, this bill will temporarily waive family fees for all families through 2023 to reduce the hardships of the COVID-19 pandemic and as permitted under federal law. By increasing the affordability of child care to working families, this bill will benefit the economic recovery of the state by helping parents remain in the workforce and achieve economic stability.”

Subsidized Child Care

The cost of child care can take up large portion of a family’s household budget. The United States Department of Health and Human Services deems early care and education affordable for families if it consumes 7 percent or less of a family’s income. According to a 2019 article from the Economic Policy Institute, the typical California family spends 25 percent of their income to obtain center-based care for an infant.

Subsidizing child care is one way to alleviate the heavy economic burden of child care while also facilitating employment opportunities for low income families. A 2016 article from the U.S. Health and Human Services Agency found a positive correlation between subsidized child care and higher employment rates for mothers. The article states that, “one of the primary motivations for public investment in early care and education is its potential to increase parental employment. Indeed, economic theory and empirical evidence suggest that such support can improve parental labor force participation rates, particularly by bringing more mothers into the workforce.”

California’s subsidized childcare system is designed to provide assistance for income eligible parents and guardians who are working, in training, seeking employment, incapacitated, or in need of respite. This childcare is available through a number of programs. The states’ largest subsidized child care programs are: General Child Care, which includes contracted centers and family childcare homes; the California State Preschool Program (CSPP), which provides developmentally, culturally, and linguistically appropriate curriculum to eligible three- and four-year olds; 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; and CalWORKs child care for parents who receive or have received CalWORKs. CalWORKs childcare can be provided in centers, family childcare homes, or license-exempt settings and is paid for using vouchers.

Certain eligibility and prioritization rules apply to subsidized childcare in California. Families are eligible for non-CalWORKs subsidized childcare 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, experiencing homelessness, 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. Second, the family must meet one of the “need” requirements which are either that the child has been identified by a legal, medical, or social services agency or emergency shelter as 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.

Family Fees

Some families receiving subsidized child care are required to pay a share of their child care costs, known as family fees. These fees do not apply to families receiving CalWORKs cash aid, safety net families, or sanctioned families. Each family pays a fee that is based on their income relative to their family size. The maximum family fee is 10 percent of the family’s income.

As noted in the Assembly Committee on Education analysis 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 state 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 four 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 four 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. According to the sponsor of this bill, the fee structure also means that as family’s income increases, the percentage of income that the family pays increases. For example, a family of four with monthly income of \$3,243 pays 2 percent of their income in fees or \$64. A family of four with a monthly income of \$6,736 pays 7.8 percent of their income in fees or \$523. Additionally, as family size increases, the percentage of income paid in family fees decreases. For example, a family of four with monthly income of \$6,736 pays 7.8 percent of their income in fees. While a family of seven with a monthly income of \$9,093 pays 5.8 percent of their income in fees. Both families pay \$523 monthly in fees. The current fee schedule will remain in place until the SPI, or CDSS pursuant to this bill, designs a new fee schedule.

Despite the subsidies provided for low-income families, the family fees for subsidized child care can be a financial burden. For example, a recent study found that, in Sacramento County, at least 10 percent of families paying fees are on payment plans for back fees they have been unable to

afford. These families are at risk of losing their subsidized child care which can, in turn, jeopardize their employment or education. Thus, placing the families at greater risk of reliance on the state's other welfare programs and preventing families from rising out of poverty. Additionally, as families' income rises, so do the family fees. This can reverse any economic gains the family would have experienced with increased income.

COVID-19 Impact on California's Early Childhood System

Prior to the disruptions caused by COVID-19, more than 1.2 million children in California were enrolled in early learning and care programs across the state. As of June 2020, more than 1/3 of early learning and care programs were closed for in-person care and those that were open were operating at reduced enrollment. Program closures and restrictions on group sizes due to the pandemic have displaced large numbers of children. According to an analysis prepared by the Assembly Education Committee, nearly eight of 10 children, or 78 percent, enrolled in licensed early learning programs prior to COVID-19 were no longer receiving care in those programs in mid-2020.

CDSS estimates that 2,030 family childcare homes and 390 child care centers permanently closed, between March and October of 2020. This loss of child care providers makes it difficult for families to find child care and potentially keeps parents from employment, school or other essential activities.

Although many programs that closed expected to reopen, they face significant barriers to doing so. All providers identified critical needs for their programs, including funding for basic operating expenses like staff salaries and supplies, protections for their health and the health of their staff and families, and guidance on how to follow new regulations and protocols. It is not known how many are planning to reopen.

Response to COVID-19 Impact on California's Early Childhood System

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. Among 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.

Public Law 116-260, named the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA) of 2021, appropriated \$10 billion through the Child Care and Development Block Grant (CCDBG) to prevent, prepare for, and respond to the COVID-19 pandemic. The funding is to be used to supplement State, Territory, and Tribal general revenue funds for child care assistance for low-income families within the United States and assistance to child care providers. CRRSA also provided flexibilities for the use of those funds. The CRRSA funds may be used for costs of providing relief from copayments and tuition payments for families and for

paying that portion of the child care provider's cost ordinarily paid through family copayments. These funds provide continued payments and assistance to child care providers in the case of decreased enrollment or closures related to coronavirus and assure they are able to remain open or reopen as appropriate and applicable. Copayments are paid by families when they chooses a child care provider that charges fees that are above the maximum amount paid via subsidized child care. This federal financial assistance may be applied to copayments, but not family fees. Family fees are the families' share of cost portion of the child care fees and required of all families who receive subsidized child care, regardless of how much their chosen child care provider charges.

Transition of Childcare Programs from CDE to CDSS

The Budget Act of 2020 transitions responsibility for certain child care and development programs from CDE to CDSS. Effective July 1, 2021, the following programs will transfer administration from CDE to DSS:

- Stages 2 and 3 of the CalWORKs Child Care Programs
- General Child Care and Development Programs
- Alternative payment programs
- Migrant alternative payment programs
- Migrant Child Care and Development Programs
- Child Care and Development services for children with severe disabilities.

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

Related/Prior Legislation:

SB 820 (Committee on Budget and Fiscal Review, Chapter 110, Statutes of 2020), among other things, waived, from September 1, 2020, to June 30, 2021, family fees for specified subsidized early learning and care programs for families who are not receiving in-person services or who are sheltering-in-place due to COVID-19.

AB 129 (Committee on Budget and Fiscal Review, Chapter 250, Statutes of 2017), among other things, updated the family fee schedule by aligning the requirements for determining the family fee schedule for child care and preschool services with updated income eligibility requirements.

AB 86 (Committee on Budget and Fiscal Review, Chapter 48, Statutes of 2019), among other things, simplified family fees for families receiving state-subsidized child care by creating a process for the CDE to adopt a new fee schedule that will provide more predictable fees through a cost-neutral change to the current fee structure and required CDE to report family fees collects for preschool programs to the Department of Finance.

PRIOR VOTES

Senate Education Committee:	6 - 0
Assembly Floor:	78 - 0
Assembly Appropriations Committee:	16 - 0
Assembly Human Services Committee:	8 - 0

POSITIONS**Support:**

Parent Voices (Co-Sponsors)
 Child Care Law Center (Co-Sponsors)
 California Child Care Resource and Referral Network (Co-sponsors)
 American Association of University Women (Co-sponsor)
 California Alternative Payment Program Association
 California Association for The Education of Young Children (CAAEEYC)
 California Commission on The Status of Women and Girls
 California Partnership to End Domestic Violence
 California Women's Law Center
 Child Care Resource Center
 Equal Rights Advocates
 Everychild California
 First 5 Association of California
 First 5 California
 National Association of Social Workers, California Chapter
 National Council of Jewish Women CA
 National Council of Jewish Women Los Angeles
 National Council of Jewish Women-california
 Silicon Valley Community Foundation
 Stronger California Advocates Network
 United Ways of California (UWCA)
 Women's Foundation California
 YMCA Childcare Resource Services

Oppose:

None received.

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