

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2125

Introduced by Assembly Member Ridley-Thomas

February 20, 2014

An act to amend ~~Section~~ *Sections 8265, 8265.5, 8266, 8266.1, and 8357 of, and to repeal Section 8265.7 of, the Education Code, relating to child care.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2125, as amended, Ridley-Thomas. Child care: standard reimbursement ~~rate: adjustment: rates.~~

Existing law establishes a system of child care and development services for children from infancy to 13 years of age and provides certain requirements for the payment by the state for these child care and development services. Existing law requires the Superintendent of Public Instruction to implement a plan that establishes reasonable standards and assigned reimbursement rates, as provided, and requires the standard reimbursement rate to be \$3,523 per unit of average daily enrollment for a 250-day year, increased by the cost-of-living adjustment granted by the Legislature. *Existing law requires the plan to require agencies having an assigned reimbursement rate above the current year standard reimbursement rate to reduce costs on an incremental basis to achieve the standard rate and requires the plan to provide for adjusting reimbursements on a case-by-case basis, as provided.*

~~This bill would add an authorization to adjust that standard reimbursement rate to provide adequate compensation for education and training.~~

This bill would delete these requirements relating to assigned reimbursement rates and reimbursement adjustments. The bill would delete references to the standard reimbursement rate and instead would require the reimbursement rate to reflect the actual current cost of care in each region per unit of average daily enrollment for a 250-day year. The bill would make conforming changes.

Existing law applies various adjustment factors to specified programs for which reimbursement rates are at or below the standard reimbursement rate, as provided.

This bill would delete the requirement that the adjustment factors apply to those specified programs.

Existing law authorizes programs above the standard reimbursement rate to be considered on a case-by-case basis for rate adjustments due to documented increases in insurance costs.

This bill would delete this provision.

Existing law requires the cost of child care services provided to CalWORKs recipients to be governed by regional market rates. Existing law requires regional market rate ceilings to be established at the 85th percentile of the 2005 regional market rate survey for that region.

This bill would instead establish the market rate ceiling at the 85th percentile of the current regional market rate survey for that region.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 8265 of the Education Code is amended
- 2 to read:
- 3 8265. (a) The Superintendent shall implement a plan that
- 4 establishes reasonable standards and assigned reimbursement rates,
- 5 *through a single reimbursement system*, which vary with the length
- 6 of the program year and the hours of service.
- 7 (1) Parent fees shall be used to pay reasonable and necessary
- 8 costs for providing additional services.
- 9 (2) When establishing standards and assigned reimbursement
- 10 rates, the Superintendent shall confer with applicant agencies.
- 11 (3) The reimbursement system, including standards and rates,
- 12 shall be submitted to the Joint Legislative Budget Committee.

1 (4) The Superintendent may establish any regulations he or she
2 deems advisable concerning conditions of service and hours of
3 enrollment for children in the programs.

4 ~~(b) The standard reimbursement rate shall be three thousand~~
5 ~~five hundred twenty-three dollars (\$3,523) reflect the actual current~~
6 ~~cost of care in each region per unit of average daily enrollment~~
7 ~~for a 250-day year, increased by the cost-of-living adjustment~~
8 ~~granted by the Legislature beginning July 1, 1980, or as adjusted~~
9 ~~to provide adequate compensation for education and training. year.~~

10 ~~(e) The plan shall require agencies having an assigned~~
11 ~~reimbursement rate above the current year standard reimbursement~~
12 ~~rate to reduce costs on an incremental basis to achieve the standard~~
13 ~~reimbursement rate.~~

14 ~~(d) (1) The plan shall provide for adjusting reimbursement on~~
15 ~~a case-by-case basis, in order to maintain service levels for agencies~~
16 ~~currently at a rate less than the standard reimbursement rate.~~
17 ~~Assigned reimbursement rates shall be increased only on the basis~~
18 ~~of one or more of the following:~~

19 ~~(A) Loss of program resources from other sources.~~

20 ~~(B) Need of an agency to pay the same child care rates as those~~
21 ~~prevailing in the local community.~~

22 ~~(C) Increased costs directly attributable to new or different~~
23 ~~regulations.~~

24 ~~(D) Documented increased costs necessary to maintain the prior~~
25 ~~year's level of service and ensure the continuation of threatened~~
26 ~~programs.~~

27 ~~(2) Child care agencies funded at the lowest rates shall be given~~
28 ~~first priority for increases.~~

29 ~~(e)~~

30 ~~(c) The plan shall provide for expansion of child development~~
31 ~~programs at no more than the standard reimbursement rate for that~~
32 ~~fiscal year.~~

33 ~~(f)~~

34 ~~(d) The Superintendent may reduce the percentage of reduction~~
35 ~~for a public agency that satisfies any of the following:~~

36 ~~(1) Serves more than 400 children.~~

37 ~~(2) Has in effect a collective bargaining agreement.~~

38 ~~(3) Has other extenuating circumstances that apply, as~~
39 ~~determined by the Superintendent.~~

1 *SEC. 2. Section 8265.5 of the Education Code is amended to*
2 *read:*

3 8265.5. (a) In order to reflect the additional expense of serving
4 children who meet any of the criteria outlined in paragraphs (1)
5 to (7), inclusive, of subdivision (b) the provider agency's reported
6 child days of enrollment for these children shall be multiplied by
7 the adjustment factors listed below.

8 (b) ~~The Pursuant to subdivision (a), the following~~ adjustment
9 factors shall apply to those programs for which assigned
10 reimbursement rates are at or below the standard reimbursement
11 rate. ~~In addition, the adjustment factors shall apply to those~~
12 ~~programs for which assigned reimbursement rates are above the~~
13 ~~standard reimbursement rate, but the reimbursement rate, as~~
14 ~~adjusted, shall not exceed the adjusted standard reimbursement~~
15 ~~rate.~~ *apply:*

16 (1) For infants who are 0 to 18 months of age and are served in
17 a child day care center, the adjustment factor shall be 1.7.

18 (2) For toddlers who are 18 to 36 months of age and are served
19 in a child day care center, the adjustment factor shall be 1.4.

20 (3) For infants and toddlers who are 0 to 36 months of age and
21 are served in a family child care home, the adjustment factor shall
22 be 1.4.

23 (4) For children with exceptional needs who are 0 to 21 years
24 of age, the adjustment factor shall be 1.2.

25 (5) For severely disabled children who are 0 to 21 years of age,
26 the adjustment factor shall be 1.5.

27 (6) For a child at risk of neglect, abuse, or exploitation who are
28 0 to 14 years of age, the adjustment factor shall be 1.1.

29 (7) For limited-English-speaking and non-English-speaking
30 children who are 2 years of age through kindergarten age, the
31 adjustment factor shall be 1.1.

32 (c) Use of the adjustment factors shall not increase the provider
33 agency's total annual allocation.

34 (d) Days of enrollment for children having more than one of
35 the criteria outlined in paragraphs (1) to (7), inclusive, of
36 subdivision (b) shall not be reported under more than one of the
37 above categories.

38 (e) The difference between the reimbursement resulting from
39 the use of the adjustment factors outlined in paragraphs (1) to (7),
40 inclusive, of subdivision (b) and the reimbursement that would

1 otherwise be received by a provider in the absence of the
2 adjustment factors shall be used for special and appropriate services
3 for each child for whom an adjustment factor is claimed.

4 *SEC. 3. Section 8265.7 of the Education Code is repealed.*

5 ~~8265.7. Notwithstanding Section 8265, programs above the~~
6 ~~standard reimbursement rate may be considered on a case-by-case~~
7 ~~basis for rate adjustments due to documented increases in insurance~~
8 ~~costs.~~

9 *SEC. 4. Section 8266 of the Education Code is amended to*
10 *read:*

11 8266. (a) Notwithstanding the provisions of Section 8265, the
12 assigned reimbursement rate of a center-based child care agency
13 ~~(a) (1) contracting with the Department of Education, (b)~~
14 ~~department, (2) operating under licensing standards for child care~~
15 ~~and development facilities specified by Section 1500 et seq. of the~~
16 ~~Health and Safety Code and by Title 22 of the California~~
17 ~~Administrative Code, Code of Regulations, and (e) (3) with less~~
18 ~~than a majority of subsidized children enrolled in the facility, shall~~
19 ~~be equivalent to the fee paid for the same service by families of~~
20 ~~nonsubsidized children.~~

21 ¶

22 (b) (1) It is not the intent of the Legislature to preclude an
23 agency with a contract with the department from adjusting the fees
24 charged to nonsubsidized children during the contract year. ~~In no~~
25 ~~event shall the assigned reimbursement rate exceed the standard~~
26 ~~reimbursement rate established pursuant to Section 8265.~~

27 These

28 (2) These agencies shall provide documentation to the
29 department that subsidized children, as necessary and appropriate,
30 shall receive supportive services through county welfare
31 departments, resource and referral programs, or other existing
32 community resources, or all of them.

33 *SEC. 5. Section 8266.1 of the Education Code is amended to*
34 *read:*

35 8266.1. Commencing with the 1995–96 fiscal year and each
36 fiscal year thereafter, for the purposes of this chapter,
37 reimbursement rates shall be adjusted by the following
38 reimbursement factors for child care and development programs
39 ~~with a standard reimbursement rate~~, but shall not apply to the
40 Resource and Referral Programs set forth in Article 2 (commencing

1 with Section 8210), the Alternative Payment Programs set forth
 2 in Article 3 (commencing with Section 8220), the part-day
 3 California state preschool programs set forth in Article 7
 4 (commencing with Section 8235), ~~the schoolage community child~~
 5 ~~care services programs set forth in Article 22 (commencing with~~
 6 ~~Section 8460)~~, or to the schoolage parent and infant development
 7 programs:

8 (a) For child care and development providers serving children
 9 for less than four hours per day, the reimbursement factor is 55
 10 percent of the ~~standard~~ reimbursement rate.

11 (b) For child care and development program providers serving
 12 children for not less than four hours per day, and less than six and
 13 one-half hours per day, the reimbursement factor is 75 percent of
 14 the ~~standard~~ reimbursement rate. For providers operating under
 15 the At Risk Child Care Program set forth in Article 15.5
 16 (commencing with Section 8350) and serving children for not less
 17 than four hours per day, and less than seven hours per day, the
 18 reimbursement factor is 75 percent of the ~~standard~~ reimbursement
 19 rate.

20 (c) For child care and development program providers serving
 21 children for not less than six and one-half hours per day, and less
 22 than 10 and one-half hours per day, the reimbursement factor is
 23 100 percent of the ~~standard~~ reimbursement rate. For providers
 24 operating under the At Risk Child Care Program set forth in Article
 25 15.5 (commencing with Section 8350) and serving children for
 26 not less than seven hours per day, and less than 10 hours per day,
 27 the reimbursement factor is 100 percent of the ~~standard~~
 28 reimbursement rate.

29 (d) For child care and development program providers serving
 30 children for 10½ hours or more per day, the reimbursement factor
 31 is 118 percent of the ~~standard~~ reimbursement rate.

32 *SEC. 6. Section 8357 of the Education Code is amended to*
 33 *read:*

34 8357. (a) The cost of child care services provided under this
 35 article shall be governed by regional market rates. Recipients of
 36 child care services provided pursuant to this article shall be allowed
 37 to choose the child care services of licensed child care providers
 38 or child care providers who are, by law, not required to be licensed,
 39 and the cost of that child care shall be reimbursed by counties or
 40 agencies that contract with the State Department of Education if

1 the cost is within the regional market rate. For purposes of this
2 section, “regional market rate” means care costing no more than
3 1.5 market standard deviations above the mean cost of care for
4 that region. The regional market rate ceilings shall be established
5 at the 85th percentile of the ~~2005~~ *current* regional market rate
6 survey for that region.

7 (b) Reimbursement to license-exempt child care providers shall
8 not exceed 60 percent of the family child care home rate established
9 pursuant to subdivision (a), effective July 1, 2011.

10 (c) Reimbursement to child care providers shall not exceed the
11 fee charged to private clients for the same service.

12 (d) Reimbursement shall not be made for child care services
13 when care is provided by parents, legal guardians, or members of
14 the assistance unit.

15 (e) A child care provider located on an Indian reservation or
16 rancheria and exempted from state licensing requirements shall
17 meet applicable tribal standards.

18 (f) For purposes of this section, “reimbursement” means a direct
19 payment to the provider of child care services, including
20 license-exempt providers. If care is provided in the home of the
21 recipient, payment may be made to the parent as the employer,
22 and the parent shall be informed of his or her concomitant legal
23 and financial reporting requirements. To allow time for the
24 development of the administrative systems necessary to issue direct
25 payments to providers, for a period not to exceed six months from
26 the effective date of this article, a county or an alternative payment
27 agency contracting with the State Department of Education may
28 reimburse the cost of child care services through a direct payment
29 to a recipient of aid rather than to the child care provider.

30 (g) Counties and alternative payment programs shall not be
31 bound by the rate limits described in subdivision (a) when there
32 are, in the region, no more than two child care providers of the
33 type needed by the recipient of child care services provided under
34 this article.

35 (h) Notwithstanding any other ~~provision~~ of law, reimbursements
36 to child care providers based upon a daily rate ~~may~~ *shall* only be
37 authorized under either of the following circumstances:

38 (1) A family has an unscheduled but documented need of six
39 hours or more per occurrence, such as the parent’s need to work

1 on a regularly scheduled day off, that exceeds the certified need
2 for child care.

3 (2) A family has a documented need of six hours or more per
4 day that exceeds no more than 14 days per month. In no event shall
5 reimbursements to a provider based on the daily rate over one
6 month's time exceed the provider's equivalent full-time monthly
7 rate or applicable monthly ceiling.

8 (3) This subdivision shall not limit providers from being
9 reimbursed for services using a weekly or monthly rate, pursuant
10 to subdivision (c) of Section 8222.