

AMENDED IN ASSEMBLY APRIL 9, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 233

Introduced by Assembly Member Lopez

February 4, 2015

An act to amend Sections 8220, 8221.5, 8222, ~~8227.3~~, ~~8261~~, ~~8263~~, ~~8265~~, ~~8269~~, ~~8273~~, and ~~8385~~ of, to amend the heading of Article 16.5 (commencing with Section 8385) of Chapter 2 of Part 6 of Division 1 of Title 1 of, and to repeal Section ~~8225~~ of, ~~8225~~, ~~8263~~, ~~8269~~, and ~~8273~~ of the Education Code, relating to child care.

LEGISLATIVE COUNSEL'S DIGEST

AB 233, as amended, Lopez. Child care and development services: alternative payment programs: reimbursement rates.

The Child Care and Development Services Act has a purpose of providing a comprehensive, coordinated, and cost-effective system of child care and development services for children from infancy to 13 years of age and their parents, including a full range of supervision, health, and support services through full- and part-time programs. The act requires the State Department of Education to contract with local contracting agencies for alternative payment programs that are intended to allow for maximum parental choice in child care. The act, to provide maximum parental choice, authorizes alternative payment programs to include certain things, including a subsidy that follows the family from one provider to another, as provided. *Existing law authorizes funds appropriated for the act to be used for alternative payment programs to allow for maximum parental choice, as provided.*

This bill would, to provide maximum parental choice and access, ~~authorize~~ *instead require* alternative payment programs *to include these*

certain things, and to also include an eligibility determination process of not less than once every 12 months. The bill would authorize funds appropriated for the act to also be used to allow for maximum parental access, as provided.

~~The act requires certain child care providers to submit to the alternative payment program a monthly attendance record or invoice, as provided, and requires the record or invoice to be maintained by the child care provider in the unaltered original form in which it was created. The act requires the alternative payment program to reimburse child care providers based on specified criteria, including based on hours of service. The act prohibits contractors from being required to track absences.~~

~~This bill would delete the requirement that the child care provider maintain the record or invoice in the unaltered original form in which it was created. The bill would delete the requirement that alternative payment programs reimburse child care providers based on the specified criteria. The bill would delete the prohibition on contractors from being required to track absences.~~

~~The act requires an alternative payment program to reimburse a licensed child care provider for child care of a subsidized child based on the rate charged by the provider to nonsubsidized families, if any, for the same services, or the rates established by the providers for prospective nonsubsidized families. The act requires a licensed child care provider to submit to the alternative payment program a copy of the provider's rate sheet listing the rate charged, among other things.~~

~~This bill would instead require an alternative payment program to reimburse a licensed child care provider for child care of a subsidized child based on the rate charged by the provider to nonsubsidized families. The bill would delete the requirement for the licensed child care provider to submit to the alternative payment program a copy of the provider's rate sheet, among other things.~~

~~The act requires an alternative payment program to verify provider rates no less frequently than once a year, as provided, and requires the department to develop regulations for addressing discrepancies in provider rate levels identified through this verification process. The act requires a child care provider to post the provider's rates and discounts or scholarship policies, if any.~~

~~This bill would delete these requirements and would require an alternative payment program to develop a rate verification process requirements.~~

The act requires, when making referrals, every agency operating both a direct service program and an alternative payment program to provide at least 4 referrals, as provided, to a family.

~~This bill would delete this requirement.~~

~~The act authorizes alternative payment programs and providers operating or providing services to maintain records in electronic format only if the original documents were created in electronic format.~~

~~This bill would authorize alternative payment programs and providers to maintain records in electronic format regardless of whether they were created in electronic format. The bill would require alternative payment programs to create and maintain specified records, including parental job verification records.~~

~~The act requires the Superintendent of Public Instruction to adopt rules and regulations that do certain things, including provide for a contract monitoring system, specify adequate standards of agency performance, set forth standards for department site visits to contracting agencies, and authorize the department to develop a process that requires every contracting agency to re compete for continued funding no less frequently than every 5 years.~~

~~This bill would delete the requirement that the Superintendent adopt rules and regulations relating to the above provisions.~~

~~*This bill would instead require a resource and referral agency to provide at least 4 referrals to a family, as provided.*~~

The act provides that a family enrolled in a state or federally funded child care and development program whose services would otherwise be terminated, as provided, may continue to receive child development services, as provided.

This bill would ~~instead~~ *also* require that a family enrolled in a state or federally funded child care and development program to be considered eligible for services for 12 months from time of initial, or annual, eligibility determination.

~~Existing law provides that, if the basis of need as stated on the application for services is seeking employment, the parent's period of eligibility for child care and development services is limited to 60 working days during the contract period. The act authorizes the Superintendent to extend this period for an additional 60 working days, as provided.~~

~~This bill would delete the Superintendent's authority to make this extension.~~

~~The act requires the Superintendent to implement a plan that, among other things, establishes reasonable standards and assigned reimbursement rates, as provided, and requires the Superintendent to confer with applicant agencies when establishing the standards and rates.~~

~~This bill would require the applicant agencies to establish, as applicable, full-time, part-time, and hourly rates and to establish reimbursement rates that best meet the needs of the community, as provided.~~

~~The act authorizes the Superintendent to establish regulations concerning conditions of service and hours of enrollment for children in the programs.~~

~~This bill would delete this authorization, among other changes.~~

~~*The act requires a physical examination and evaluation, including age-appropriate immunization, before, or within 6 weeks of, enrollment, as provided.*~~

~~*This bill would delete this requirement.*~~

~~The act requires the Superintendent to adopt rules, regulations, and guidelines to facilitate the funding and reimbursement procedures.~~

~~This bill would require the Superintendent to adopt these rules, regulations, and guidelines to facilitate the funding and reimbursement procedures for contractors operating centers, family child care homes, or both, as well as for contractors who do not operate a center, family child care home, or both. The bill would require the contractors who do not operate a center, family child care home, or both to establish a specified rate reimbursement structure to meet a certified need for child care, as provided. *both.*~~

~~The act requires the Superintendent to establish a fee schedule for families using preschool and child care and development services.~~

~~This bill would require the amount of the family fee to be deducted from the reimbursement to a provider.~~

~~The act requires the department, in consultation with the State Department of Social Services and with fraud investigation experts, as provided, to perform an error rate study to estimate the percentage of errors relating to child care and development services. The act requires the department to develop recommendations for the prevention and elimination of child care fraud and programmatic errors and the identification and collection of child care overpayments. The act requires the department to report its recommendations to the respective policy and fiscal committees of the Legislature by April 1, 2005.~~

~~This bill would delete these requirements.~~

~~This bill would also make conforming and nonsubstantive changes.~~

This bill would authorize the contractor to require a child care provider to collect the family fee, as deducted from the child care provider reimbursement, or to collect the family fee amount directly from the parent. The bill would authorize specified contractors to develop a written policy that directs parents to pay family fees directly to the child care provider, as provided.

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 8220 of the Education Code is amended
2 to read:

3 8220. (a) Upon the approval of the State Department of
4 Education, funds appropriated for the purposes of this chapter may
5 be used for alternative payment programs to allow for maximum
6 parental choice *and access*. Various methods of reimbursement
7 for parental costs for child care may be utilized. All payment
8 arrangements shall conform to the eligibility criteria and the parent
9 fee schedule established pursuant to Sections 8263 and 8265.

10 (b) To provide for maximum parental choice and access,
11 alternative payment programs ~~may~~ *shall* include the following:

12 (1) An eligibility determination process of ~~not less than once~~
13 every 12 months.

14 (2) A subsidy that follows the family from one provider to
15 another within a given alternative payment program.

16 (3) Choices, when possible, among hours of service including
17 before and after school, evenings, weekends, and split shifts.

18 (4) Child care and development services according to parental
19 choice, including use of family day care homes, general center
20 based programs, and other state-funded programs to the extent that
21 those programs exist in the general service area and are in
22 conformity with the purposes and applicable laws for which those
23 programs were established, but excluding state preschool programs.

24 SEC. 2. Section 8221.5 of the Education Code is amended to
25 read:

26 8221.5. (a) Child care providers authorized to provide services
27 pursuant to this article shall submit to the alternative payment

1 program a monthly attendance record or invoice for each child
2 who received services that, at a minimum, documents the dates
3 and actual times care was provided each day, including the time
4 the child entered and the time the child left care each day. The
5 information shall be documented on a daily basis.

6 (b) The monthly attendance record or invoice shall, at a
7 minimum, be signed by the parent or guardian of the child receiving
8 services and the child care provider once per month to attest that
9 the child's attendance is accurately reflected. The verification of
10 attendance shall be made by signature at the end of each month of
11 care and under penalty of perjury by both the parent or guardian
12 of the child receiving services and the child care provider.

13 (c) The monthly attendance record or invoice shall be maintained
14 by the child care ~~provider~~ *provider*.

15 (d) The alternative payment program shall accept the monthly
16 attendance record or invoice as documentation of the hours of care
17 provided if the attendance record or invoice includes adequate
18 information documented on a daily basis, including, at a minimum,
19 the dates and actual times care was provided each day, including
20 the time the child entered and the time the child left care each day.
21 *The alternative payment program shall reimburse child care*
22 *providers based upon the following criteria:*

23 (1) *The hours of service provided that are broadly consistent*
24 *with certified hours of need.*

25 (2) *For families with variable schedules, the actual days and*
26 *hours of attendance, up to the maximum certified hours.*

27 (3) *For license-exempt providers that provide part-time services,*
28 *the actual days and hours of attendance, up to the maximum*
29 *certified hours.*

30 (e) For purposes of this section, a monthly attendance record
31 or invoice is defined as documentation that includes, at a minimum,
32 the name of the child receiving services, the dates and actual times
33 care was provided each day, including the time the child entered
34 and the time the child left care each day, that is signed under
35 penalty of perjury by both the parent or guardian and the child care
36 provider, attesting that the information provided is accurate.

37 SEC. 3. Section 8222 of the Education Code is amended to
38 read:

39 8222. (a) Payments made by alternative payment programs
40 shall not exceed the applicable market rate ceiling. Alternative

1 payment programs may expend more than the standard
2 reimbursement rate for a particular child. However, the aggregate
3 payments for services ~~purchase~~ *reimbursed* by the agency during
4 the contract year shall not exceed the assigned reimbursable amount
5 as established by the contract for the year. An agency shall not
6 make payments in excess of the rate charged to full-cost families.
7 This section does not preclude alternative payment programs from
8 using the average daily enrollment adjustment factor for children
9 with exceptional needs as provided in Section 8265.5.

10 (b) Alternative payment programs shall reimburse licensed child
11 care providers in accordance with a biennial market rate survey
12 pursuant to Section 8447, at a rate not to exceed the ceilings
13 established pursuant to Section 8357.

14 (c) An alternative payment program shall reimburse a licensed
15 provider for child care of a subsidized child based on the rate
16 charged by the provider to nonsubsidized ~~families~~ *families, if any,*
17 *for the same services, or the rates established by the provider for*
18 *prospective nonsubsidized families. A licensed child care provider*
19 *shall submit to the alternative payment program a copy of the*
20 *provider's rate sheet listing the rates charged, and the provider's*
21 *discount or scholarship policies, if any, along with a statement*
22 *signed by the provider confirming that the rates charged for a*
23 *subsidized child are equal to or less than the rates charged for a*
24 *nonsubsidized child.*

25 (d) *An alternative payment program shall maintain a copy of*
26 *the rate sheet and the confirmation statement.*

27 ~~(d)~~

28 (e) A licensed child care provider shall submit to the local
29 resource and referral agency a copy of the provider's rate sheet
30 listing rates charged, and the provider's discount or scholarship
31 policies, if any, and shall self-certify that the information is correct.

32 ~~(e)~~

33 (f) A licensed child care provider may alter rate levels for
34 subsidized children once per year and shall provide the alternative
35 payment program and resource and referral agency with the updated
36 information pursuant to subdivisions (c) and (e), to reflect any
37 changes. *An alternative payment program may implement an*
38 *altered rate level once per year.*

1 (f) ~~A licensed child care provider shall post in a prominent~~
2 ~~location adjacent to the provider’s license at the child care facility~~
3 ~~the provider’s rates and discounts or scholarship policies, if any.~~

4 (g) ~~An alternative payment program shall develop a rate~~
5 ~~verification process.~~

6 ~~SEC. 4. Section 8225 of the Education Code is repealed.~~

7 ~~SEC. 5. Section 8227.3 of the Education Code is amended to~~
8 ~~read:~~

9 ~~8227.3. (a) Alternative payment programs and providers~~
10 ~~operating or providing services pursuant to this article may~~
11 ~~maintain records in electronic format.~~

12 (b) ~~Alternative payment programs shall create and maintain the~~
13 ~~following records:~~

14 (1) ~~Parental job verification records.~~

15 (2) ~~Parent income verification.~~

16 (3) ~~Parent school or training verifications and attendance~~
17 ~~records.~~

18 (e) ~~Pursuant to Section 33421, the original records shall be~~
19 ~~retained by each contractor for at least five years, or, where an~~
20 ~~audit has been requested by a state agency, until the date the audit~~
21 ~~is resolved, whichever is longer.~~

22 (d) ~~This section does not require an alternative payment program~~
23 ~~or provider to create records electronically.~~

24 ~~SEC. 6. Section 8261 of the Education Code is amended to~~
25 ~~read:~~

26 ~~8261. (a) The Superintendent shall adopt rules and regulations~~
27 ~~pursuant to this chapter. The rules and regulations shall include,~~
28 ~~but not be limited to, provisions that do all of the following:~~

29 (1) ~~Provide clear guidelines for the selection of agencies when~~
30 ~~child development contracts are let, including, but not limited to,~~
31 ~~specification that an agency headquartered in the proposed service~~
32 ~~area on January 1, 1985, will be given priority for a new contract~~
33 ~~in that area, unless the department makes a written determination~~
34 ~~that (A) the agency is not able to deliver the level of services~~
35 ~~specified in the request for proposal, or (B) the department has~~
36 ~~notified the agency that it is not in compliance with the terms of~~
37 ~~its contract.~~

38 (2) ~~Establish reporting requirements for service reports,~~
39 ~~including provisions for varying the frequency with which these~~
40 ~~reports are to be submitted on the basis of agency performance.~~

1 ~~(3) Specify standards for withholding payments to agencies that~~
2 ~~fail to submit required fiscal reports.~~

3 ~~(b) The Superintendent shall consult with the State Department~~
4 ~~of Social Services with respect to rules and regulations adopted~~
5 ~~relative to the disbursement of federal funds under Title XX of the~~
6 ~~federal Social Security Act.~~

7 ~~(c) For purposes of expediting the implementation of state or~~
8 ~~federal legislation to expand child care services, the Superintendent~~
9 ~~may waive (1) the regulations regarding the point qualifications~~
10 ~~for, and the process and scoring of, interviews of contract~~
11 ~~applicants pursuant to Section 18002 of Title 5 of the California~~
12 ~~Code of Regulations, or (2) the time limitations for scheduling and~~
13 ~~notification of appeal hearings and their results pursuant to Section~~
14 ~~18003 of Title 5 of the California Code of Regulations. The~~
15 ~~Superintendent shall ensure that the appeal hearings provided for~~
16 ~~in Section 18003 of Title 5 of the California Code of Regulations~~
17 ~~are conducted in a timely manner.~~

18 ~~(d) (1) Child care and development programs operated under~~
19 ~~contract from funds made available pursuant to the federal Child~~
20 ~~Care and Development Fund, shall be administered according to~~
21 ~~Division 19 (commencing with Section 17906) of Chapter 1 of~~
22 ~~Title 5 of the California Code of Regulations, unless provisions~~
23 ~~of these regulations conflict with federal regulations. If state and~~
24 ~~federal regulations conflict, the federal regulations shall apply~~
25 ~~unless a waiver of federal regulations is authorized.~~

26 ~~(2) For purposes of this section, "Child Care and Development~~
27 ~~Fund" has the same meaning as in Section 98.2 of Title 45 of the~~
28 ~~Code of Federal Regulations.~~

29 *SEC. 4. Section 8225 of the Education Code is amended to*
30 *read:*

31 8225. When making referrals, ~~every agency operating both a~~
32 ~~direct service program and an alternative payment program a~~
33 ~~resource and referral agency shall provide at least four referrals,~~
34 ~~at least one of which shall be a provider over which the agency~~
35 ~~has no fiscal or operational control, as well as information to a~~
36 ~~family on the family's ability to choose a license exempt provider.~~

37 ~~SEC. 7.~~

38 *SEC. 5. Section 8263 of the Education Code is amended to*
39 *read:*

1 8263. (a) The Superintendent shall adopt rules and regulations
2 on eligibility, enrollment, and priority of services needed to
3 implement this chapter. In order to be eligible for federal and state
4 subsidized child development services, families shall meet at least
5 one requirement in each of the following areas:

6 (1) A family is (A) a current aid recipient, (B) income eligible,
7 (C) homeless, or (D) one whose children are recipients of protective
8 services, or whose children have been identified as being abused,
9 neglected, or exploited, or at risk of being abused, neglected, or
10 exploited.

11 (2) A family needs the child care services (A) because the child
12 is identified by a legal, medical, or social services agency, or
13 emergency shelter as (i) a recipient of protective services or (ii)
14 being neglected, abused, or exploited, or at risk of neglect, abuse,
15 or exploitation, or (B) because the parents are (i) engaged in
16 vocational training leading directly to a recognized trade,
17 paraprofession, or profession, (ii) employed or seeking
18 employment, (iii) seeking permanent housing for family stability,
19 or (iv) incapacitated.

20 (b) Except as provided in Article 15.5 (commencing with Section
21 8350), priority for federal and state subsidized child development
22 services is as follows:

23 (1) (A) First priority shall be given to neglected or abused
24 children who are recipients of child protective services, or children
25 who are at risk of being neglected or abused, upon written referral
26 from a legal, medical, or social services agency. If an agency is
27 unable to enroll a child in the first priority category, the agency
28 shall refer the family to local resource and referral services to
29 locate services for the child.

30 (B) A family who is receiving child care on the basis of being
31 a child at risk of abuse, neglect, or exploitation, as defined in
32 subdivision (k) of Section 8208, is eligible to receive services
33 pursuant to subparagraph (A) for up to three months, unless the
34 family becomes eligible pursuant to subparagraph (C).

35 (C) A family may receive child care services for ~~up to~~ 12 months
36 on the basis of a certification by the county child welfare agency
37 that child care services continue to be necessary or, if the child is
38 receiving child protective services during that period of time, and
39 the family requires child care and remains otherwise eligible. This

1 time limit does not apply if the family's child care referral is
2 recertified by the county child welfare agency.

3 (2) Second priority shall be given equally to eligible families,
4 regardless of the number of parents in the home, who are income
5 eligible. Within this priority, families with the lowest gross monthly
6 income in relation to family size, as determined by a schedule
7 adopted by the Superintendent, shall be admitted first. If two or
8 more families are in the same priority in relation to income, the
9 family that has a child with exceptional needs shall be admitted
10 first. If there is no family of the same priority with a child with
11 exceptional needs, the same priority family that has been on the
12 waiting list for the longest time shall be admitted first. For purposes
13 of determining order of admission, the grants of public assistance
14 recipients shall be counted as income.

15 (3) The Superintendent shall set criteria for, and may grant
16 specific waivers of, the priorities established in this subdivision
17 for agencies that wish to serve specific populations, including
18 children with exceptional needs or children of prisoners. These
19 new waivers shall not include proposals to avoid appropriate fee
20 schedules or admit ineligible families, but may include proposals
21 to accept members of special populations in other than strict income
22 order, as long as appropriate fees are paid.

23 (c) Notwithstanding any other law, in order to promote
24 continuity of services, a family enrolled in a state or federally
25 funded child care and development program *whose services would*
26 *otherwise be terminated because the family no longer meets the*
27 *program income, eligibility, or need criteria may continue to*
28 *receive child development services in another state or federally*
29 *funded child care and development program if the contractor is*
30 *able to transfer the family's enrollment to another program for*
31 *which the family is eligible before the date of termination of*
32 *services or to exchange the family's existing enrollment with the*
33 *enrollment of a family in another program, provided that both*
34 *families satisfy the eligibility requirements for the program in*
35 *which they are being enrolled. These families shall be considered*
36 *eligible for services for 12 months from time of initial, or annual,*
37 *eligibility determination. The transfer of enrollment may be to*
38 *another program within the same administrative agency or to*
39 *another agency that administers state or federally funded child*
40 *care and development programs.*

1 ~~(d) A physical examination and evaluation, including~~
2 ~~age-appropriate immunization, shall be required before, or within~~
3 ~~six weeks of, enrollment. A standard, rule, or regulation shall not~~
4 ~~require medical examination or immunization for admission to a~~
5 ~~child care and development program of a child whose parent or~~
6 ~~guardian files a letter with the governing board of the child care~~
7 ~~and development program stating that the medical examination or~~
8 ~~immunization is contrary to his or her religious beliefs, or provide~~
9 ~~for the exclusion of a child from the program because of a parent~~
10 ~~or guardian having filed the letter. However, if there is good cause~~
11 ~~to believe that a child is suffering from a recognized contagious~~
12 ~~or infectious disease, the child shall be temporarily excluded from~~
13 ~~the program until the governing board of the child care and~~
14 ~~development program is satisfied that the child is not suffering~~
15 ~~from that contagious or infectious disease.~~

16 *(d) In order to promote continuity of services, the Superintendent*
17 *may extend the 60-working-day period specified in subdivision (a)*
18 *of Section 18086.5 of Title 5 of the California Code of Regulations*
19 *for an additional 60 working days if he or she determines that*
20 *opportunities for employment have diminished to the degree that*
21 *one or both parents cannot reasonably be expected to find*
22 *employment within 60 working days and granting the extension is*
23 *in the public interest. The scope of extensions granted to all*
24 *contractors pursuant to this subdivision shall be limited to the*
25 *necessary geographic areas and affected persons, which shall be*
26 *described in the Superintendent's order granting the extension. It*
27 *is the intent of the Legislature that extensions granted pursuant*
28 *to this subdivision improve services in areas with high*
29 *unemployment rates or areas with disproportionately high numbers*
30 *of seasonal agricultural jobs, or both.*

31 (e) Regulations formulated and promulgated pursuant to this
32 section shall include the recommendations of the State Department
33 of Health Care Services relative to health care screening and the
34 provision of health care services. The Superintendent shall seek
35 the advice and assistance of these health authorities in situations
36 where service under this chapter includes or requires care of
37 children who are ill or children with exceptional needs.

38 (f) The Superintendent shall establish guidelines for the
39 collection of employer-sponsored child care benefit payments from
40 a parent whose child receives subsidized child care and

1 development services. These guidelines shall provide for the
2 collection of the full amount of the benefit payment, but not to
3 exceed the actual cost of child care and development services
4 provided, notwithstanding the applicable fee based on the fee
5 schedule.

6 (g) The Superintendent shall establish guidelines according to
7 which the director or a duly authorized representative of the child
8 care and development program will certify children as eligible for
9 state reimbursement pursuant to this section.

10 (h) Public funds shall not be paid directly or indirectly to an
11 agency that does not pay at least the minimum wage to each of its
12 employees.

13 ~~SEC. 8. Section 8265 of the Education Code is amended to~~
14 ~~read:~~

15 ~~8265. (a) The Superintendent shall implement a plan that~~
16 ~~establishes reasonable standards and assigned reimbursement rates,~~
17 ~~which vary with the length of the program year and the hours of~~
18 ~~service.~~

19 ~~(1) Parent fees shall be used to pay reasonable and necessary~~
20 ~~costs for providing additional services.~~

21 ~~(2) When establishing standards and assigned reimbursement~~
22 ~~rates, the Superintendent shall confer with applicant agencies.~~
23 ~~Applicant agencies shall comply with both of the following:~~

24 ~~(A) Applicant agencies shall establish, as applicable, full-time,~~
25 ~~part-time, and hourly rates.~~

26 ~~(B) Applicant agencies shall establish reimbursement rates that~~
27 ~~best meet the needs of the community, that are consistent with~~
28 ~~certified hour of care, and that do not exceed market rate ceilings.~~

29 ~~(3) The reimbursement system, including standards and rates,~~
30 ~~shall be submitted to the Joint Legislative Budget Committee.~~

31 ~~(b) The standard reimbursement rate shall be nine thousand~~
32 ~~twenty-four dollars and seventy-five cents (\$9,024.75) per unit of~~
33 ~~average daily enrollment for a 250-day year, and commencing~~
34 ~~with the 2015-16 fiscal year, shall be increased by the~~
35 ~~cost-of-living adjustment granted by the Legislature annually~~
36 ~~pursuant to Section 42238.15.~~

37 ~~(c) The plan shall provide for adjusting reimbursement on a~~
38 ~~case-by-case basis, in order to maintain service levels for agencies~~
39 ~~currently at a rate less than the standard reimbursement rate.~~

1 ~~Assigned reimbursement rates shall be increased only on the basis~~
2 ~~of one or more of the following:~~
3 ~~(1) Loss of program resources from other sources.~~
4 ~~(2) Need of an agency to pay the same child care rates as those~~
5 ~~prevailing in the local community.~~
6 ~~(3) Increased costs directly attributable to new or different~~
7 ~~regulations.~~
8 ~~(4) (A) Documented increased costs necessary to maintain the~~
9 ~~prior year's level of service and ensure the continuation of~~
10 ~~threatened programs.~~
11 ~~(B) Child care agencies funded at the lowest rates shall be given~~
12 ~~first priority for increases.~~
13 ~~(d) The plan shall provide for expansion of child development~~
14 ~~programs at no more than the standard reimbursement rate for that~~
15 ~~fiscal year.~~
16 ~~(e) The Superintendent may reduce the percentage of reduction~~
17 ~~for a public agency that satisfies any of the following:~~
18 ~~(1) Serves more than 400 children.~~
19 ~~(2) Has in effect a collective bargaining agreement.~~
20 ~~(3) Has other extenuating circumstances that apply, as~~
21 ~~determined by the Superintendent.~~
22 ~~SEC. 9.~~
23 ~~SEC. 6.~~ Section 8269 of the Education Code is amended to
24 read:
25 8269. ~~(a)~~ The Superintendent shall adopt rules, regulations,
26 and guidelines to facilitate the funding and reimbursement
27 ~~procedures, procedures~~ for contractors operating centers, family
28 child care homes, or both, required by this chapter.
29 ~~(b) (1) The Superintendent shall adopt rules, regulations, and~~
30 ~~guidelines to facilitate the funding and reimbursement procedures~~
31 ~~for contractors that do not operate a center, a family child care~~
32 ~~home, or both.~~
33 ~~(2) Contractors not operating a center, a family child care home,~~
34 ~~or both, shall establish, as applicable, a full-time, part-time, and~~
35 ~~hourly rate reimbursement structure to meet a certified need for~~
36 ~~child care.~~
37 ~~(3) Reimbursement to the provider shall be the amount the~~
38 ~~provider charges unsubsidized families for the same hours of child~~
39 ~~care, or the maximum subsidy amount.~~

1 ~~SEC. 10.~~

2 *SEC. 7.* Section 8273 of the Education Code is amended to
3 read:

4 8273. (a) The Superintendent shall establish a fee schedule
5 for families using preschool and child care and development
6 services pursuant to this chapter, including families receiving
7 services pursuant to paragraph (1) of subdivision (b) of Section
8 8263. It is the intent of the Legislature that the new fee schedule
9 shall be simple and easy to implement.

10 (b) The family fee schedule shall retain a flat monthly fee per
11 family. The schedule shall differentiate between fees for part-time
12 care and full-time care.

13 ~~(c) The amount of a family fee shall be deducted from the~~
14 ~~reimbursement to a provider.~~

15 (c) *A contractor operating pursuant to Section 8220 may develop*
16 *a written policy that directs parents to pay family fees directly to*
17 *the child care provider.*

18 (1) *The contractor shall provide written notification of the*
19 *assessed fee to both the parent and the child care provider.*

20 (2) *The contractor shall deduct the amount of the family fee*
21 *assessed to the parent when calculating the payment due to the*
22 *child care provider.*

23 (3) *The contractor shall report its payment to the child care*
24 *provider plus the assessed family fees as an expense on the*
25 *attendance and expenditure reports as required by regulation.*

26 (4) *A contractor with a written policy directing parents to pay*
27 *family fees directly to the child care provider are exempt from all*
28 *of the following:*

29 (A) *Requiring families to pay family fees in advance of child*
30 *care services.*

31 (B) *Requiring any record or proof that the family paid any*
32 *applicable family fees to the child care provider.*

33 (C) *Notification of delinquent fees or termination for delinquent*
34 *fees.*

35 (d) *The contractor is authorized to require child care providers*
36 *to collect the family fee, which shall be deducted from the*
37 *reimbursement to the child care provider, or to collect the family*
38 *fee amount directly from the parent.*

39 ~~(d)~~

1 (e) Using the most recently approved family fee schedule
 2 pursuant to subdivision (f) of Section 8447, families shall be
 3 assessed a flat monthly fee based on income, certified family need
 4 for full-time or part-time care services, and enrollment, and shall
 5 not be based on actual attendance. A recalculation of a family fee
 6 shall not occur if attendance varies from enrollment unless a change
 7 in need for care is assessed.

8 (e)

9 (f) The Superintendent shall design the new family fee schedule
 10 based on the state median income data that was in use for the
 11 2007–08 fiscal year, adjusted for family size. The revised family
 12 fee schedule shall begin at income levels at which families
 13 currently begin paying fees. The revised fees shall not exceed 10
 14 percent of the family’s monthly income. The Superintendent shall
 15 first submit the adjusted fee schedule to the Department of Finance
 16 for approval.

17 (f)

18 (g) The income of a recipient of federal supplemental security
 19 income benefits pursuant to Title XVI of the federal Social Security
 20 Act (42 U.S.C. Sec. 1381 et seq.) and state supplemental program
 21 benefits pursuant to Title XVI of the federal Social Security Act
 22 (42 U.S.C. Sec. 1381 et seq.) and Chapter 3 (commencing with
 23 Section 12000) of Part 3 of Division 9 of the Welfare and
 24 Institutions Code shall not be included in total countable income
 25 for purposes of determining the amount of the family fee.

26 (g)

27 (h) Family fees shall be assessed at initial enrollment and
 28 reassessed at update of certification or recertification.

29 (h)

30 (i) It is the intent of the Legislature that the new family fees
 31 shall be cost neutral to the state and generate roughly the same
 32 amount of revenue as was generated under the previous family fee
 33 schedule.

34 ~~SEC. 11. The heading of Article 16.5 (commencing with~~
 35 ~~Section 8385) of Chapter 2 of Part 6 of Division 1 of Title 1 of the~~
 36 ~~Education Code is amended to read:~~

37
 38 ~~Article 16.5. Best Practices~~
 39

1 ~~SEC. 12.~~ Section 8385 of the Education Code is amended to
2 read:
3 ~~8385.~~ On or after July 1, 2005, all child care contracts entered
4 into by the department for means-tested child care programs,
5 including, but not limited to, the programs described in Article 3
6 (commencing with Section 8220), Article 8 (commencing with
7 Section 8240), and Article 15.5 (commencing with Section 8350);
8 shall require implementation of best practices.

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