

AMENDED IN ASSEMBLY APRIL 5, 2016
AMENDED IN ASSEMBLY MARCH 18, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2133

Introduced by Assembly Member Chu

February 17, 2016

An act to add Sections 8221.6 and 8221.7 to the Education Code, relating to child care and development.

LEGISLATIVE COUNSEL'S DIGEST

AB 2133, as amended, Chu. Child care: alternative payment programs: appeals process.

Existing law, the Child Care and Development Services 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.

This bill would require the department to establish ~~an~~ a 2-step appeals process for parents who receive child care ~~subsidies~~ *subsidies, as specified*, and a 2-step appeals process for family child care providers who receive child care subsidy payments, as specified.

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. It is the intent of the Legislature to do all of the
2 following:

1 (a) To ensure that parents eligible for child care subsidies
2 through the alternative payment program, also known as the
3 contractor, receive accurate and reliable information as to their
4 eligibility for services and their right to choose the appropriate
5 early education program for their child, and that eligible providers
6 are able to care for subsidized children in accordance with state
7 statute.

8 (b) To ensure that the providers of care receive appropriate
9 referrals and accurate and timely payment for their services.

10 (c) To establish appeals processes to ensure that parents and
11 providers have administrative remedies when they have reason to
12 believe that a decision by an alternative payment program is
13 incorrect.

14 SEC. 2. Section 8221.6 is added to the Education Code, to
15 read:

16 8221.6. (a) The department shall establish a two-step appeals
17 process for parents who receive subsidies that includes a first step
18 within the alternative payment program agency with the hearing
19 officer being an administrative employee other than the employee
20 who made the decision that is being appealed, and a second step
21 within the department's early education and support division. *Early*
22 *Education and Support Division*. The department's decision shall
23 be final.

24 (b) (1) (A) *The contractor through the notice of action shall*
25 *notify the parent of his or her appeal rights as established under*
26 *this section any time a notice of action is sent to the parent. As*
27 *used in this section, "contractor" means the local contracting*
28 *agency that has entered into an agreement with the department*
29 *for an alternative payment program.*

30 (B) *The contractor shall complete a notice of action if the*
31 *application for services is approved, or when changes are made*
32 *to the service agreement. These changes may include, but are not*
33 *necessarily limited to, an increase or decrease in parent fees, an*
34 *increase or decrease in the amount of services or termination of*
35 *services, or a violation of parental choice.*

36 (C) *The contractor shall mail or deliver the notice of action to*
37 *the parent at least 14 calendar days before the effective date of*
38 *the intended action.*

1 (D) If the parent disagrees with an action, the parent may file
2 a request for a hearing with the contractor within 30 calendar
3 days of the date the notice of action was received.

4 (E) Upon the filing of a request for hearing, the intended action
5 shall be suspended until the review process has been completed.
6 The review process is complete when the appeal process has been
7 exhausted, including the second step at the department, or when
8 the parent abandons the appeal process.

9 (F) Within 10 calendar days following the receipt of the request
10 for a hearing, the contractor shall notify the parent of the time
11 and place of the hearing. The time and place of the hearing shall,
12 to the extent possible, be convenient for the parent.

13 (G) The hearing shall be conducted by an administrative staff
14 person who shall be referred to as “the hearing officer.” The
15 hearing officer shall be at a staff level higher in authority than the
16 staff person who made the contested decision.

17 (H) The parent, or the parent’s representative of his or her
18 choosing, shall be required to attend the hearing. If the parent or
19 the parent’s representative fails to appear at the hearing, the
20 parent shall be deemed to have abandoned the appeal.

21 (I) The contractor shall arrange for the presence of an
22 interpreter at the hearing if one is requested by the parent.

23 (J) The hearing officer shall explain to the parent the legal,
24 regulatory, or policy basis for the intended action.

25 (K) During the hearing, the parent shall have an opportunity
26 to explain the reason or reasons he or she believes that the
27 contractor’s decision was incorrect. The contractor’s staff shall
28 present any material facts they believe were omitted by the parent.

29 (L) The hearing officer shall mail or deliver to the parent a
30 written decision within 10 calendar days after the hearing.

31 (2) If the parent is receiving Stage 1 CalWORKs child care
32 funding, the appeals process applicable to the CalWORKs program
33 pursuant to Chapter 2 (commencing with Section 11200) of Part
34 3 of Division 9 of the Welfare and Institutions Code shall apply.

35 (c) (1) If the parent disagrees with the written decision from
36 the contractor, the parent has 30 calendar days in which to appeal
37 to the Early Education and Support Division.

38 (2) If the parent does not submit an appeal request to the Early
39 Education and Support Division within 30 calendar days, the

1 *parent's appeal process shall be deemed abandoned and the*
2 *contractor may implement the intended action.*

3 *(3) The parent shall specify in the appeal request the reason or*
4 *reasons why he or she believes the contractor's decision is*
5 *incorrect.*

6 *(4) Upon receipt of an appeal request, the Early Education and*
7 *Support Division shall request copies of the basic data file*
8 *including the intended notice of action and the contractor's written*
9 *decision and other relevant materials from the contractor. The*
10 *Early Education and Support Division may also conduct any*
11 *investigations, interviews, or mediation necessary to resolve the*
12 *appeal.*

13 *(5) The decision of the Early Education and Support Division*
14 *shall be mailed or delivered to the parent and the contractor within*
15 *30 calendar days after receipt of the appeal request.*

16 *(d) (1) The contractor shall comply with the decision of the*
17 *Early Education and Support Division immediately upon receipt*
18 *of that decision.*

19 *(2) The contractor shall be reimbursed for child care and*
20 *development services that are delivered to a family during the*
21 *appeal process.*

22 *(3) If a contractor's determination that a family is ineligible is*
23 *upheld by the Early Education and Support Division, services to*
24 *the family shall cease upon receipt of the Child Development*
25 *Division's decision by the contractor.*

26 *(e) As used in this section, "Early Education and Support*
27 *Division" means the Early Education and Support Division of the*
28 *department.*

29 SEC. 3. Section 8221.7 is added to the Education Code, to
30 read:

31 8221.7. (a) The department shall establish a two-step appeals
32 process for licensed and license-exempt family child care providers
33 who receive subsidy payments through an alternative payment
34 program. The first step shall be within the alternative payment
35 program agency with the hearing officer being an administrative
36 employee other than the employee who made the decision that is
37 being appealed, and a second step within the ~~department's early~~
38 ~~education and support division.~~ *Early Education and Support*
39 *Division.* The department's decision shall be final.

1 **(b) (1)** *The contractor, through the certificate that authorizes*
2 *the provider to care for a child in the subsidy program, shall notify*
3 *the provider of his or her appeal rights as established under this*
4 *section. Appealable issues may include, but are not necessarily*
5 *limited to, initial approval or denial of care, accurate payments*
6 *for services rendered, and timeliness of payments for services*
7 *rendered. As used in this section, “contractor” means the local*
8 *contracting agency that has entered into an agreement with the*
9 *department for an alternative payment program.*

10 **(2)** *The contractor, through the certificate of authorization for*
11 *care, shall initially notify the provider of the terms and conditions*
12 *of services to a parent and his or her children and any changes*
13 *thereafter. The contractor shall mail or deliver the notice of*
14 *changes to the provider at least 14 calendar days before the*
15 *effective date of the intended change. If the provider disagrees*
16 *with an action, the provider may file a request for a hearing with*
17 *the contractor within 30 calendar days of the date the notice was*
18 *received by the provider.*

19 **(3)** *Upon the filing of a request for hearing, the intended action*
20 *shall be suspended until the review process has been completed.*
21 *The review process is complete when the appeal process has been*
22 *exhausted, including the second step at the department or when*
23 *the provider abandons the appeal process.*

24 **(4)** *Within 10 calendar days following the receipt of the request*
25 *for a hearing, the contractor shall notify the provider of the time*
26 *and place of the hearing. The time and place of the hearing shall,*
27 *to the extent possible, be convenient for the provider.*

28 **(5)** *The hearing shall be conducted by an administrative staff*
29 *person who shall be referred to as “the hearing officer.” The*
30 *hearing officer shall be at a staff level higher in authority than the*
31 *staff person who made the contested decision.*

32 **(6)** *The provider, or the provider’s representative of his or her*
33 *choosing, is required to attend the hearing. If the provider or the*
34 *provider’s representative fails to appear at the hearing, the*
35 *provider shall be deemed to have abandoned the appeal.*

36 **(7)** *The contractor shall arrange for the presence of an*
37 *interpreter at the hearing if one is requested by the provider.*

38 **(8)** *The hearing officer shall explain to the provider the legal,*
39 *regulatory, or policy basis for the intended action.*

1 (9) During the hearing, the provider shall have the opportunity
2 to explain the reason or reasons he or she believes that the
3 contractor's decision is incorrect. The contractor's staff shall
4 present any material facts that they believe were omitted by the
5 provider.

6 (10) The hearing officer shall mail or deliver to the provider a
7 written decision within 10 calendar days after the hearing.

8 (c) (1) If the provider disagrees with the written decision from
9 the contractor, the provider has 30 calendar days in which to
10 appeal to the Early Education and Support Division.

11 (2) If the provider does not submit an appeal request to the
12 Early Education and Support Division within 30 calendar days,
13 the provider's appeal process shall be deemed abandoned and the
14 contractor may implement the intended action.

15 (3) The provider shall specify in the appeal request the reason
16 or reasons why he or she believes the contractor's decision is
17 incorrect.

18 (4) Upon receipt of a request for appeal, the Early Education
19 and Support Division shall request copies of the basic data file,
20 including the intended notice of action and the contractor's written
21 decision and other relevant materials from the contractor. The
22 Early Education and Support Division may also conduct any
23 investigations, interviews, or mediation necessary to resolve the
24 appeal.

25 (5) The decision of the Early Education and Support Division
26 shall be mailed or delivered to the provider and the contractor
27 within 30 calendar days after receipt of the appeal request.

28 (d) (1) The contractor shall comply with the decision of the
29 Early Education and Support Division immediately upon receipt
30 of that decision.

31 (2) The contractor shall be reimbursed for any child care and
32 development services that are delivered by a provider during the
33 appeal process.

34 (3) If a contractor's determination is upheld by the Early
35 Education and Support Division, the intended action proposed by
36 the contractor shall be carried out or upheld.

1 *(e) As used in this section, “Early Education and Support*
2 *Division” means the Early Education and Support Division of the*
3 *department.*

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