

AMENDED IN ASSEMBLY JUNE 1, 2016

AMENDED IN ASSEMBLY MAY 27, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2150

Introduced by Assembly Members Santiago, Weber, and Gonzalez
(Coauthor: Senator Hill)

February 17, 2016

An act to amend Sections 8263, 8263.1, and 8273.1 of the Education Code, and to amend Section 11323.2 of the Welfare and Institutions Code, relating to child care and development services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2150, as amended, Santiago. Subsidized child care and development services: eligibility periods.

Existing law, the Child Care and Development Services Act, requires the Superintendent of Public Instruction to administer child care and development programs that offer a full range of services for eligible children from infancy to 13 years of age. Existing law requires the Superintendent to adopt rules and regulations on eligibility, enrollment, and priority of services needed to implement the act. The act, and regulations adopted pursuant to the act, set forth eligibility requirements for families to receive federal and state subsidized child development services and impose various time limits for receipt of services and recertification for continued services.

This bill would require that a family, upon establishing initial eligibility or ongoing eligibility for services under the act, be considered to meet all eligibility requirements for those services for not less than 12 months, receive those services for not less than 12 months before

having their eligibility redetermined, and not be required to report changes to income or other changes for at least 12 months, except as provided. The bill would revise the definition of “income eligible” and provide that the definition applies for purposes of establishing initial income eligibility for services under the act, and would add a definition of “ongoing income eligible” for purposes of establishing ongoing income eligibility for services under the act. ~~The~~

The bill would, except as provided, prohibit a payment made by a child development program for a child, during the period between a family’s most recent eligibility determination or redetermination and its next eligibility redetermination, from being considered an error or an improper payment due to a change in the family’s circumstances during that same period. The bill would, notwithstanding specified law, authorize the State Department of Education to implement this provision through management bulletins or similar letters of instruction until regulations are filed with the Secretary of State to implement the provision. The bill would require the department to initiate a rulemaking action to implement the provision on or before December 31, 2017. The bill would require the department, before initiating this rulemaking action, to convene a workgroup of parents, advocates, department staff, child development program representatives, and other stakeholders to develop recommendations regarding implementing the provision.

The bill would repeal certain provisions that impose time limits for services under the act and a provision that authorizes the Superintendent to grant an extension of services, as specified. The bill would make other conforming changes.

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 8263 of the Education Code is amended
- 2 to read:
- 3 8263. (a) The Superintendent shall adopt rules and regulations
- 4 on eligibility, enrollment, and priority of services needed to
- 5 implement this chapter. In order to be eligible for federal and state
- 6 subsidized child development services, families shall meet at least
- 7 one requirement in each of the following areas:
- 8 (1) A family is (A) a current aid recipient, (B) income eligible,
- 9 (C) homeless, or (D) one whose children are recipients of protective

1 services, or whose children have been identified as being abused,
2 neglected, or exploited, or at risk of being abused, neglected, or
3 exploited.

4 (2) A family needs the child care services (A) because the child
5 is identified by a legal, medical, or social services agency, a local
6 educational agency liaison for homeless children and youths
7 designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of
8 the United States Code, a Head Start program, or an emergency
9 or transitional shelter as (i) a recipient of protective services, (ii)
10 being neglected, abused, or exploited, or at risk of neglect, abuse,
11 or exploitation, or (iii) being homeless or (B) because the parents
12 are (i) engaged in vocational training leading directly to a
13 recognized trade, paraprofession, or profession, (ii) employed or
14 seeking employment, (iii) seeking permanent housing for family
15 stability, or (iv) incapacitated.

16 (b) Except as provided in Article 15.5 (commencing with Section
17 8350), priority for federal and state subsidized child development
18 services is as follows:

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

26 (2) Second priority shall be given equally to eligible families,
27 regardless of the number of parents in the home, who are income
28 eligible. Within this priority, families with the lowest gross monthly
29 income in relation to family size, as determined by a schedule
30 adopted by the Superintendent, shall be admitted first. If two or
31 more families are in the same priority in relation to income, the
32 family that has a child with exceptional needs shall be admitted
33 first. If there is no family of the same priority with a child with
34 exceptional needs, the same priority family that has been on the
35 waiting list for the longest time shall be admitted first. For purposes
36 of determining order of admission, the grants of public assistance
37 recipients shall be counted as income.

38 (3) The Superintendent shall set criteria for, and may grant
39 specific waivers of, the priorities established in this subdivision
40 for agencies that wish to serve specific populations, including

1 children with exceptional needs or children of prisoners. These
2 new waivers shall not include proposals to avoid appropriate fee
3 schedules or admit ineligible families, but may include proposals
4 to accept members of special populations in other than strict income
5 order, as long as appropriate fees are paid.

6 (c) Notwithstanding any other law, in order to promote
7 continuity of services, a family enrolled in a state or federally
8 funded child care and development program whose services would
9 otherwise be terminated because the family no longer meets the
10 program income, eligibility, or need criteria may continue to
11 receive child development services in another state or federally
12 funded child care and development program if the contractor is
13 able to transfer the family's enrollment to another program for
14 which the family is eligible before the date of termination of
15 services or to exchange the family's existing enrollment with the
16 enrollment of a family in another program, provided that both
17 families satisfy the eligibility requirements for the program in
18 which they are being enrolled. The transfer of enrollment may be
19 to another program within the same administrative agency or to
20 another agency that administers state or federally funded child
21 care and development programs.

22 (d) A physical examination and evaluation, including
23 age-appropriate immunization, shall be required before, or within
24 six weeks of, enrollment. A standard, rule, or regulation shall not
25 require medical examination or immunization for admission to a
26 child care and development program of a child whose parent or
27 guardian files a letter with the governing board of the child care
28 and development program stating that the medical examination or
29 immunization is contrary to his or her religious beliefs, or provide
30 for the exclusion of a child from the program because of a parent
31 or guardian having filed the letter. However, if there is good cause
32 to believe that a child is suffering from a recognized contagious
33 or infectious disease, the child shall be temporarily excluded from
34 the program until the governing board of the child care and
35 development program is satisfied that the child is not suffering
36 from that contagious or infectious disease.

37 (e) Regulations formulated and promulgated pursuant to this
38 section shall include the recommendations of the State Department
39 of Health Care Services relative to health care screening and the
40 provision of health care services. The Superintendent shall seek

1 the advice and assistance of these health authorities in situations
2 where service under this chapter includes or requires care of
3 children who are ill or children with exceptional needs.

4 (f) The Superintendent shall establish guidelines for the
5 collection of employer-sponsored child care benefit payments from
6 a parent whose child receives subsidized child care and
7 development services. These guidelines shall provide for the
8 collection of the full amount of the benefit payment, but not to
9 exceed the actual cost of child care and development services
10 provided, notwithstanding the applicable fee based on the fee
11 schedule.

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

16 (h) (1) Except as provided in paragraphs (2) to (4), inclusive,
17 upon establishing initial eligibility or ongoing eligibility for
18 services under this chapter, a family shall be considered to meet
19 all eligibility requirements for those services for not less than 12
20 months, shall receive those services for not less than 12 months
21 before having their eligibility redetermined, and shall not be
22 required to report changes to income or other changes for at least
23 12 months.

24 (2) A family shall report increases in income that exceed the
25 threshold for ongoing income eligibility as described in subdivision
26 (b) of Section 8263.1, and the family's ongoing eligibility for
27 services shall at that time be redetermined.

28 (3) A family that establishes initial eligibility or ongoing
29 eligibility on the basis of seeking employment shall receive services
30 under this chapter as follows:

31 (A) If seeking employment is the basis for initial eligibility, the
32 family shall receive services under this chapter for not less than
33 six months.

34 (B) If seeking employment is the only basis for ongoing
35 eligibility at the time of redetermination, the family shall receive
36 services under this chapter for six additional month unless the
37 family becomes eligible on another basis pursuant to paragraph
38 (2) of subdivision (a).

39 (4) A family may at any time voluntarily report income or other
40 changes. This information shall be used, as applicable, to reduce

1 a family’s fees, increase the family’s subsidy, or extend the period
 2 of the family’s eligibility before redetermination.

3 (i) (1) *Because a family that meets eligibility requirements at*
 4 *its most recent eligibility determination or redetermination is*
 5 *considered eligible until the next redetermination, as provided in*
 6 *subdivision (h), a payment made by a child development program*
 7 *for a child during this period shall not be considered an error or*
 8 *an improper payment due to a change in the family’s circumstances*
 9 *during that same period.*

10 (2) *Notwithstanding paragraph (1), the state or its designated*
 11 *agent may seek to recover payments that are the result of fraud.*

12 (j) (1) *Notwithstanding the rulemaking provisions of the*
 13 *Administrative Procedure Act (Chapter 3.5 (commencing with*
 14 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
 15 *Code) and Section 33308.5 of this code, until regulations are filed*
 16 *with the Secretary of State to implement subdivision (h), the*
 17 *department may implement this section through management*
 18 *bulletins or similar letters of instruction.*

19 (2) *The department shall initiate a rulemaking action to*
 20 *implement subdivision (h) on or before December 31, 2017. Before*
 21 *initiating a rulemaking action pursuant to this paragraph, the*
 22 *department shall convene a workgroup of parents, advocates,*
 23 *department staff, child development program representatives, and*
 24 *other stakeholders to develop recommendations regarding*
 25 *implementing subdivision (h).*

26 (i)

27 (k) Public funds shall not be paid directly or indirectly to an
 28 agency that does not pay at least the minimum wage to each of its
 29 employees.

30 SEC. 2. Section 8263.1 of the Education Code is amended to
 31 read:

32 8263.1. (a) For purposes of establishing initial income
 33 eligibility for services under this chapter, “income eligible” means
 34 that a family’s adjusted monthly income is at or below 70 percent
 35 of the state median income, based on the most recent data on state
 36 median income published by the United States Census Bureau, for
 37 a family of the same size.

38 (b) For purposes of establishing ongoing income eligibility
 39 under this chapter, “ongoing income eligible” means that a family’s
 40 adjusted monthly income is at or below 85 percent of the state

1 median income, based on the most recent data on state median
2 income published by the United States Census Bureau, for a family
3 of the same size.

4 (c) The income of a recipient of federal supplemental security
5 income benefits pursuant to Title XVI of the federal Social Security
6 Act (42 U.S.C. Sec. 1381 et seq.) and state supplemental program
7 benefits pursuant to Title XVI of the federal Social Security Act
8 and Chapter 3 (commencing with Section 12000) of Part 3 of
9 Division 9 of the Welfare and Institutions Code shall not be
10 included as income for purposes of determining eligibility for child
11 care under this chapter.

12 SEC. 3. Section 8273.1 of the Education Code is amended to
13 read:

14 8273.1. (a) A family that receives services pursuant to
15 paragraph (1) of subdivision (b) of Section 8263 may be exempt
16 from family fees for up to 12 months.

17 (b) Notwithstanding any other law, a family receiving
18 CalWORKs cash aid shall not be charged a family fee.

19 (c) Notwithstanding any other law, commencing with the
20 2014–15 fiscal year, family fees shall not be assessed for the
21 part-day California preschool program to income eligible families
22 whose children are enrolled in that program pursuant to Article 7
23 (commencing with Section 8235).

24 SEC. 4. Section 11323.2 of the Welfare and Institutions Code
25 is amended to read:

26 11323.2. (a) Necessary supportive services shall be available
27 to every participant in order to participate in the program activity
28 to which he or she is assigned or to accept employment or the
29 participant shall have good cause for not participating under
30 subdivision (f) of Section 11320.3. As provided in the
31 welfare-to-work plan entered into between the county and
32 participant pursuant to this article, supportive services shall include
33 all of the following:

34 (1) Child care.

35 (A) Paid child care shall be available to every participant with
36 a dependent child in the assistance unit who needs paid child care
37 if the child is 10 years of age or under, or requires child care or
38 supervision due to a physical, mental, or developmental disability
39 or other similar condition as verified by the county welfare
40 department, or who is under court supervision.

1 (B) To the extent funds are available, paid child care shall be
2 available to a participant with a dependent child in the assistance
3 unit who needs paid child care if the child is 11 or 12 years of age.

4 (C) Necessary child care services shall be available to every
5 former recipient for up to two years, pursuant to Article 15.5
6 (commencing with Section 8350) of Chapter 2 of Part 6 of Division
7 1 of Title 1 of the Education Code.

8 (D) A child in foster care receiving benefits under Title IV-E
9 of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.) or
10 a child who would become a dependent child except for the receipt
11 of federal Supplemental Security Income benefits pursuant to Title
12 XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et
13 seq.) shall be deemed to be a dependent child for the purposes of
14 this paragraph.

15 (E) The provision of care and payment rates under this paragraph
16 shall be governed by Article 15.5 (commencing with Section 8350)
17 of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education
18 Code. Parent fees shall be governed by Section 8263 of the
19 Education Code.

20 (2) Transportation costs, which shall be governed by regional
21 market rates as determined in accordance with regulations
22 established by the department.

23 (3) Ancillary expenses, which shall include the cost of books,
24 tools, clothing specifically required for the job, fees, and other
25 necessary costs.

26 (4) Personal counseling. A participant who has personal or
27 family problems that would affect the outcome of the
28 welfare-to-work plan entered into pursuant to this article shall, to
29 the extent available, receive necessary counseling or therapy to
30 help him or her and his or her family adjust to his or her job or
31 training assignment.

32 (b) If provided in a county plan, the county may continue to
33 provide case management and supportive services under this
34 section to former participants who become employed. The county
35 may provide these services for up to the first 12 months of
36 employment to the extent they are not available from other sources
37 and are needed for the individual to retain the employment.

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