

Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 92 (Reyes) – As Amended March 25, 2021

[Note: This bill is double referred to the Assembly Human Services Committee and was heard by that Committee as it relates to issues under its jurisdiction.]

SUBJECT: Preschool and childcare and development services: family fees

SUMMARY: Requires the California Department of Social Services (CDSS) to establish a fee schedule for families using preschool and childcare and development services, and requires that family fees be waived for all families until October 31, 2022, due to the COVID-19 pandemic. Specifically, **this bill:**

- 1) Requires the CDSS to establish a fee schedule for families using preschool and childcare and development services. States the intent of the Legislature that the fee schedule be simple and easy to implement.
- 2) Requires the CDSS to convene a workgroup of parents, childcare providers, advocates, CDSS staff, child development program representatives, and other stakeholders to develop an equitable fee schedule for families whose adjusted monthly income is at or above 75% of the state median income. Requires that the workgroup's report be provided and recommendations be adopted prior to the date that the federal government's allowance for the State to waive family fees for all families expires. Requires the CDSS to first submit the adjusted fee schedule to the Department of Finance (DOF) for approval.
- 3) Requires family fees to be assessed at the initial enrollment and reassessed at the update of certification or recertification. Requires that the implementation of the family fee schedule comply with the requirement of eligibility for services for not less than 12 months.
- 4) Requires the reduction in family fees collected not be absorbed by the direct service contractors of family childcare providers, including family childcare home providers participating in a family childcare home education network (FCCHEN) and alternative payment program providers (APPs). Requires the number of childcare vouchers not be reduced due to any reduction in the collection of family fees.
- 5) Requires family fees be waived for all families until October 31, 2022, due to the COVID-19 pandemic. Prohibits the cost of waiving family fees from being absorbed by the direct service contractors of family childcare providers, including family childcare home providers participating in a FCCHEN and APPs. Prohibits the number of childcare vouchers from being reduced on account of the family fee waiver. Requires funds used to waive family fees comply with federal law.

EXISTING LAW:

- 1) Establishes the Child Care and Development Fund (CCDF), an aggregate of several funding sources that is distributed in block grants by the federal government to the states and territories. States that the purpose of the CCDF is to increase the availability, affordability,

and quality of childcare services. Requires states and territories receiving CCDF funds to prepare and submit to the federal government a plan detailing how these funds will be allocated and expended. Requires the majority of the funds to be used to provide childcare services to families who meet certain income and need criteria. Requires that a specified percentage of the funding be used for activities to improve the quality of childcare, and to pay for costs of administering the CCDF. (42 U.S.C. 9857 et seq.)

- 2) Establishes the California Child Care and Developmental Services Act (CCDSA) for the purpose of providing a comprehensive, coordinated, and cost-effective system of childcare and development services, as specified, for children from infancy to 13 years of age, and their parents, through full- and part-time programs. (Education Code (EC) 8200 et seq.)
- 3) States the intent of the Legislature that all families have access to childcare and development services, as specified, regardless of ethnic status, cultural background, or special needs, and the intent that subsidized childcare and development services be provided to eligible families, to the extent funding is available. (EC 8202)
- 4) Requires the Superintendent of Public Instruction (SPI) to establish a fee schedule for families using preschool and childcare and development services. States the intent of the Legislature that the fee schedule be simple and easy to implement. Requires the family fee schedule retain a flat monthly fee per family based on income, and differentiate between fees for part-time care and full-time care. Requires the SPI to design the 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. Requires the revised fees not exceed 10% of the family's monthly income. Requires the SPI to first submit the adjusted fee schedule to the DOF for approval. (EC 8273)
- 5) 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 (CSPP); and
 - c) Families with children who have been identified as at risk of abuse or neglect may be exempt from paying a family fee for 12 months. Families whose children are receiving Child Protective Services may be exempt from paying a family fee for 12 months. (EC 8273.1)

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. According to the author's office, "The COVID-19 pandemic has only heightened the need for affordable childcare 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 childcare 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 childcare and early childhood

education services. By increasing the affordability of childcare to working families, this bill will benefit the economic recovery of the state by helping parents remain in the workforce and achieve economic stability.”

California has a complex system of early childhood programs. California’s system of subsidized early care and education (ECE) is made up of a complex system of programs serving children from birth through 13 years, funded through a mix of federal and state dollars, and administered through a mixed delivery system by local education agencies (LEAs), and community-based providers. The major ECE programs include, but are not limited to, the following:

Program	Description	Number of Children Served by Program Type During Fiscal Year 2019-20
General Child Care	Administered by the CDE, provided through contracted centers and family childcare home networks that are administered through private or public agencies and offer childcare, education, and development services.	46,807
California State Preschool Program	Administered by the CDE through contractors and provides both part-day (at least 3 hours per day) and full-day (at least 6.5 hours per day) services to eligible 3- and 4-year-olds, and can be offered in various settings, including childcare centers, family childcare network homes, or in school settings.	Part-day: 115,388 Fully-day: 72,276
Alternative Payment Programs	Offers families vouchers that allow them to choose their own childcare in either centers, family childcare homes, or license-exempt settings. Administered through contracts with the CDE.	85,207
California Work Opportunity and Responsibility to Kids childcare (CalWORKs)	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. Stage 1 is administered by DSS and Stages 2 & 3 are administered by CDE.	Stage 2: 79,019 Stage 3: 75,795
Head Start	A national program providing comprehensive developmental services for low-income children from birth to entry into elementary school. California's Head Start program is the largest in the nation.	89,211 (federal fiscal year 2019)

Source: CDE, Source: CDD-801A Monthly Child Care Reports for FY 2019-20.

Transition of childcare programs from the CDE to the CDSS. According to the CDE, California is committed to building a system of early learning and care which is more integrated

and coordinated to promote a high-quality, affordable, early childcare system designed to comprehensively and effectively serve the children and families in our state. The enacted state budget for Fiscal Year 2020-21 transitions responsibility for certain child care and development programs and nutrition program from the CDE to the CDSS, effective July 1, 2021, including:

- Stages 2 and 3 of the CalWORKs Child Care Programs;
- General Child Care and Development Programs (CCTR);
- Alternative payment programs (CAPP);
- Migrant alternative payment programs (CMAP);
- Migrant Child Care and Development Programs (CMIG); and
- Child Care and Development services for children with severe disabilities.

Other programs supporting early education, as well as the school and summer child nutrition meal programs currently administered by CDE, remain under the responsibility of CDE, including:

- California State Preschool Program (CSPP);
- Quality Rating and Improvement System Grants for CSPP;
- The Inclusive Early Education Expansion Program;
- The American Indian Early Childhood Education Program;
- Transitional Kindergarten; and
- Special Education Services for Young Children with Disabilities.

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

Access and affordability concerns. According to a 2018 Getting Down to Facts II Study, *Early Childhood Education in California*, the average annual cost of childcare for infants from birth through two years was \$8,462 for family childcare and \$13,327 for care in a childcare center, and the average cost of full-time early care for 3- and 4-year-olds in the state was \$7,850 a year in licensed family childcare homes and \$9,106 for center care. California is one of the ten least affordable states for infant care, costing an average of 51% of the median income of a single parent and 15% of the median income of two parents.

Reimbursement rates. Two different sets of rate schedules apply to providers of subsidized childcare. For programs utilizing vouchers, which allow families to access childcare through their choice of a licensed day care center, a licensed family childcare home, or license-exempt child, providers are reimbursed using the Regional Market Rate (RMR). This rate is based on a

biannual RMR survey of the cost of childcare in various geographical regions across the state. These rates vary significantly from one county to another, reflecting differences in the cost of care. This table illustrates differences in the full-time daily rate for children from birth to 24 months:

Childcare Setting	Fresno County	Los Angeles County	Alameda County
Childcare center	\$72.73	\$96.53	\$114.06
Family childcare home	\$45.53	\$54.40	\$72.20
License-exempt care	\$31.87	\$39.48	\$50.54

This table illustrates differences in the full-time daily rate for children from 2- to 5-years-old:

Childcare Setting	Fresno County	Los Angeles County	Alameda County
Childcare center	\$48.81	\$67.37	\$81.64
Family childcare home	\$41.73	\$51.96	\$67.19
License-exempt care	\$29.21	\$36.37	\$47.03

Providers of contracted care – childcare and development programs that contract directly with the CDE, as opposed to voucher-based care – are reimbursed according to a uniform statewide rate system based on the Standard Reimbursement Rate (SRR). The fiscal year 2018-19 SRR for General Childcare is \$47.98 per child per day of enrollment or \$11,995 per year based on 250 days of operation. However, acknowledging the higher costs associated with providing care to certain populations, state law provides for “adjustment factors” to be multiplied by child days of enrollment to arrive at an adjusted SRR.

Family fees. The CCDF requires states to establish a sliding fee scale for families that receive childcare services supported by the block grant that: 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 may 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.

Families whose adjusted monthly income is at or above 75% of the state median income that receive subsidized preschool and childcare services in California may be required to pay a family fee and family co-payment dependent on income and the cost of care. A family fee is a flat monthly fee, and a co-payment is the difference between the amount charged by a childcare provider and the amount of the childcare subsidy. The following families are exempt from paying family fees for 12 months: families receiving CalWORKs cash aid; families of children enrolled in a part-day CSPP; and families with children who have been identified as at risk of abuse or neglect. Families whose children are receiving Child Protective Services may be exempt from paying a family fee for 12 months.

Current 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, 2019, a family of 4 with a monthly income of approximately \$3,500 will be assessed a \$85 monthly family fee for part-time care, or a \$170 monthly family fee for full-time care. A family of 4 with a monthly income of approximately \$6,000 will be assessed a \$206 monthly family fee for part-time care, or a \$411 monthly family fee for full-time care. Family fees may not exceed 10% of the family's monthly income, and the SPI must first submit adjusted fee schedules to the DOF for approval. This bill proposes that family fees be no more than 1% of family income, a significant change to current law.

Reimbursement for a subsidized childcare contract is reduced by the amount of family fees collected by families served, as fees collected from families covers a portion of the cost of care. If a contractor is unable to collect all of the family fees, and performs their due diligence to collect any amounts past due, the contractor is allowed to claim the uncollectable amount as a bad debt expense.

Family fees during the COVID-19 pandemic. SB 820 (Committee on Budget and Fiscal Review), Chapter 110, Statutes of 2020, 1) waives family fees for all subsidized childcare in July and August 2020, and provides additional funds to contractors to augment contracts for fees waived; 2) allows families who were disenrolled, either voluntarily or involuntarily, due to delinquent family fees to re-enroll without the need for additional eligibility documentation; and 3) waives family fees for September 2020 through June 2021, for families where all children in the family enrolled in care remain at home for early learning and care distance learning or are sheltering-in-place. The CDE was also granted federal waivers of family fees consistent with the related provisions of SB 820. This bill requires family fees be waived for all families until October 31, 2022, due to the COVID-19 pandemic.

In order to offset the cost of waived fees for direct service contractors, APPs, and FCCHEN providers, \$30 million in federal Coronavirus relief funds were made available.

This bill prohibits the cost of waiving family fees from being absorbed by the direct service contractors of family childcare providers, including family childcare home providers participating in a FCCHEN and an APP, and prohibits the number of childcare vouchers from being reduced due to the family fee waiver.

This bill would require the CDSS to convene a workgroup of parents, childcare providers advocates, department staff, child development program representatives, and other stakeholders to develop an equitable fee schedule for families whose adjusted monthly family income is at or above 75% of the state median income. The bill also requires that the workgroup's report be provided and recommendations be adopted prior to the date that the federal government's allowance for the state to waive family fees for all families expires. ***Staff recommends that the bill be amended to*** specify that the report be provided by the CDSS to the Governor and the Legislature, and the report include the proposed fee schedule, the workgroup participants, the criteria used to develop the fee schedule, and the recommendations adopted by the CDSS. Staff also recommend adding a clarifying amendment requiring that the number of contracted childcare spaces, in addition to the number of childcare vouchers, shall not be reduced because of the family fee waiver.

Arguments in support. Wu Yee Children's Services of San Francisco writes, "California is one of the most expensive states for parents who need childcare services. There is broad consensus

among childcare experts and economists that spending more than 7% of annual income on childcare places economic stress on working families. While there are a number of State and Federally-funded programs that help families pay for childcare, families who need care must still pay family fees which can make subsidized care unaffordable. With limited disposable income, working families struggle to pay high fees and are forced to make difficult decisions about basic needs. These families are at significant risk of losing their subsidized childcare which can, in turn, jeopardize their employment or education. This places them at greater risk of reliance on the state's other welfare programs and prevents families from rising out of poverty. As families earn raises and their income rises, so do their family fees, which then erases any economic gains they have made. The current fee structure penalizes families for their hard work.”

Related legislation. SB 820 (Committee on Budget and Fiscal Review), Chapter 110, Statutes of 2020, waives family fees, as specified, through June 2021 due to the COVID-19 pandemic. The bill provides funding, and states the intent to provide funding contingent upon the receipt of federal funds to offset waived family fees to contractors and childcare providers.

AB 129 (Committee on Budget), Chapter 250, Statutes of 2017, requires the DOF to update its calculations of the state median income for various family sizes to the CDE by March 1st of each year, instead of May 1st, for purposes of determining childcare eligibility. The bill aligns requirements for determining the family fee schedule for childcare and preschool services with the new income eligibility requirements and repeals the previous family fee schedule.

AB 99 (Committee on Budget), Chapter 15, Statutes of 2017, updates income eligibility rules to use the most recent calculation of state median income based on census data and adjusted for family size for determining initial and ongoing eligibility for subsidized childcare services. The bill requires that families who meet eligibility and need requirements for subsidized childcare services receive services for not less than 12 months.

AB 86 (Committee on Budget), Chapter 48, Statutes of 2013, requires the SPI to establish a revised fee schedule for families using preschool and childcare and development services. The bill requires that families be assessed a flat monthly fee, based on income, certified family need for full-time or part-time care services, and enrollment, and not based on attendance. States that the family fee schedule that was in effect for the 2012–13 fiscal year remain in effect for the 2013–14 fiscal year until as specified.

REGISTERED SUPPORT / OPPOSITION:

Support

Aly's Angels Family Child Care
C5 Children's School
California Alternative Payment Program Association
California Association of Student Councils
California Child Care Resource and Referral Network
California Commission on the Status of Women and Girls
California Family Child Care Network
California Women's Law Center
California Work & Family Coalition
Child Action, INC.

Child Care Alliance of Los Angeles
Child Care Law Center
Child Care Providers United (CCPU)
Child Care Resource Center
Child360
Childcare Business Institute
Children Now
Children's Council of San Francisco
Clergy and Laity United for Economic Justice
Coalition of California Welfare Rights Organizations
Community Change Action
Community Child Care Council of Sonoma County
Courage California
Early Care Educators of San Francisco
Early Edge California
Equal Rights Advocates
Everychild California
Family Child Care Association of San Francisco
First 5 Association of California
First 5 San Bernardino
Good Samaritan Family Resource Center
Indivisible CA Statestrong
Kai Ming Head Start
Kidango
Los Angeles Unified School District
Low Income Investment Fund
Modern Education Family Childcare
National Council of Jewish Women (NCJW) CA
National Council of Jewish Women Los Angeles
National Council of Jewish Women, Sacramento Section
National Council of Jewish Women-California
Orange County Child Care Association
Parent Voices CA
Parent Voices San Francisco
Parent Voices San Mateo County
San Bernardino County District Advocates for Better Schools (SANDABS)
San Bernardino; County of
San Francisco Child Care Planning and Advisory Council
San Francisco ECE Advocacy Coalition
The Children's Partnership
The Future Supporting Family Child Care
True Sunshine Preschool Center
Untitled No. 1 School
Women's Foundation California
Work Equity Action Fund
Wu Yee Children's Services
14 individuals

Opposition

None on file

Analysis Prepared by: Marguerite Ries / ED. / (916) 319-2087