Date of Hearing: July 7, 2021

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
SB 246 (Leyva) – As Amended April 13, 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.]

SENATE VOTE: 39-0

SUBJECT: Early childhood education: reimbursement rates

SUMMARY: Requires the California Department of Social Services (DSS) to establish a single reimbursement rate for early learning and care programs, including variation for regional costs and quality adjustment factors. Specifically, **this bill**:

1) Makes inoperative upon an appropriation in the annual Budget Act and repeals January 1 of the following year provisions of current law that require the implementation of a reimbursement system plan that establishes reasonable standards and assigned reimbursement rates, which vary with the length of the program year and the hours of service.

2) Instead, operative on or after July 1, 2022, upon an appropriation in the annual Budget Act, requires DSS to implement a reimbursement system plan that establishes reasonable standards and assigned reimbursement rates, which vary with the regional reimbursement ceiling, a quality adjustment factor to address the cost of staffing ratios, the length of the program year, the hours of service, and any additional adjustment factors.

3) Requires parent fees to be used to pay reasonable and necessary costs for providing additional services.

4) Requires the California Department of Education (CDE), when establishing standards and assigned reimbursement rates, to confer with applicant agencies.

5) Requires the CDE, by January 1, 2024, to develop, or hire a contractor to develop, a modernized reimbursement formula based on the components outlined in the state's Master Plan for Early Learning and Care, including, but not limited to, adjustments for market, program quality, child needs and characteristics, and state of emergency declarations.

6) Requires the CDE, by January 1, 2024, to convene a working group to assess the existing quality standards for equity and accessibility to all provider types and settings.

7) Requires the CDE to develop recommendations to be implemented with the new reimbursement base rate. Further, requires changes to be aligned with appropriate competencies for early childhood workers, including, but not limited to, experience, education, and environmental settings, to be implemented in alignment with the new reimbursement formula.

8) Requires by November 10, 2022, and annually thereafter, the reimbursement system plan, including county rate targets established by the CDE and the total statewide funding amount

necessary to reach annual rate targets for all agencies, to be submitted to the Joint Legislative Budget Committee.

9) Authorizes CDE to establish any regulations that the department deems advisable concerning conditions of service and hours of enrollment for children in the programs.

10) Requires the DSS, commencing January 1, 2022, to adopt an interim standard reimbursement rate based on the 2018 regional market rate (RMR) survey of $11,995 and, commencing with the 2024–25 fiscal year, implement the new base rate, which shall be annually increased by the cost-of-living adjustment (COLA) granted by the Legislature. Commencing July 1, 2018, the full-day state preschool reimbursement rate shall be $12,070 and, commencing with the 2019–20 fiscal year, shall be annually increased by the COLA granted by the Legislature.

11) Requires agencies having an assigned reimbursement rate above the current year standard reimbursement rate to reduce costs on an incremental basis to achieve the Standard Reimbursement Rate (SRR).

12) Requires the reimbursement system plan to provide for adjusting reimbursement on a case-by-case basis, in order to maintain service levels for agencies. Assigned reimbursement rates shall be increased only on the basis of one or more of the following:

    a) Loss of program resources from other sources;

    b) Need of an agency to pay the same childcare rates as those prevailing in the local community;

    c) Increased costs directly attributable to new or different regulations; or,

    d) Documented increased costs necessary to maintain the prior year's level of service and ensure the continuation of threatened programs.

13) Requires childcare agencies funded at the lowest rates to be given first priority for increases.

14) Provides that the reimbursement system plan shall provide for expansion of child development programs at no more than the SRR for that fiscal year.

15) Authorizes the CDE to reduce the percentage of reduction for a public agency that serves more than 400 children, has in effect a collective bargaining agreement, or has other extenuating circumstances.

16) Requires the CDE, by July 1, 2022, and annually thereafter, to establish a reimbursement rate target for each contracting agency that meets quality standards and any regulations adopted, based on all of the following elements:

    a) The RMR ceilings for the contracting agency's county, as applicable;

    b) The quality adjustment factor for the age range of children proposed to be served by the contracting agency, as a multiplier;

    c) The program year and hours of service reimbursement factor, if applicable;

d) Additional adjustment factors for special circumstances or services, if applicable; and,

e) A short-term crisis adjustment factor of 1.5 under any state of emergency declarations made by local or state officials.

17) Requires that a contracting agency's rate target not be less than that agency's 2022 rate, by age range.

18) Requires the CDE, to establish quality adjustment factors for all of the following age ranges:

a) For infants who are 0 to 18 months of age, the adjustment factor shall be 1.23.

b) For toddlers who are 18 to 36 months of age, the adjustment factor shall be 1.23.

c) For preschoolers who are 36 months to six years of age, the adjustment factor shall be 1.23.

d) For schoolage children who are six years of age and older, the adjustment factor shall be 1.03.

19) Requires that all providers meeting quality standards be paid the quality adjustment factor, including family child care home education networks (FCCHENs).

20) Requires the reimbursement system plan to include a formula for annually adjusting reimbursement rates for each agency, based on all of the following:

a) The annual Budget Act funding allocated for SRR increases;

b) An equitable distribution of SRR increases to agencies, by county, as an equal percentage of the county outstanding rate target, for purposes of meeting the targets identified by these provisions; and,

c) Funding allocated for COLA adjustments, if applicable.

21) Adds the crisis adjustment factor of 1.5 for children who are served in a county experiencing a county state of emergency, or any county during a statewide state of emergency, and makes inoperative these and all current provisions in state law related to adjustment factors on July 1, 2022.

22) Requires, as of July 1, 2022, in order to reflect the additional expense of serving children who meet any of the criteria outlined below, the provider agency's reported child days of enrollment for these children be multiplied by the adjustment factors listed below:

a) For children with exceptional needs who are 0 to 21 years of age, the adjustment factor shall be 1.54;

b) For severely disabled children who are 0 to 21 years of age, the adjustment factor shall be 1.93;

c) For children at risk of neglect, abuse, or exploitation who are 0 to 14 years of age, the adjustment factor shall be 1.1;

d) For limited-English-speaking and non-English-speaking children who are two years of age through kindergarten age, the adjustment factor shall be 1.1;

e) For children who are served in a contracted program where early childhood mental health consultation services are provided, the adjustment factor shall be 1.05; and,

f) For children who are served in a county experiencing a county state of emergency, or any county during a statewide state of emergency, the crisis adjustment factor shall be 1.5 based on the enrollment of children in the program.

23) Specifies that use of the adjustment factors will not increase the provider agency's total annual allocation.

24) Requires that days of enrollment for children who meet more than one of the criteria not be reported under more than one of the categories.

25) Provides that for children for whom an adjustment factor is applied, and who are additionally eligible for the state of emergency adjustment factor, reported child days of enrollment shall be multiplied by the sum of the applicable adjustment factor and 0.05.

26) Requires that the difference between the reimbursement resulting from the use of the adjustment factors and the reimbursement that would otherwise be received by a provider in the absence of the adjustment factors be used for special and appropriate services for each child for whom an adjustment factor is claimed.

27) Requires that for childcare and development program providers serving children in a county experiencing a county state of emergency, or any county during a statewide state of emergency, the crisis adjustment factor be 150% of the SRR based on the enrollment of children in the program.

28) Changes the survey year from 2016 to 2018 to be used for determining the RMR ceiling.

29) Requires that upon an appropriation by the Legislature for these express purposes, and during the 2021 calendar year, the 2021 RMR ceilings be established at the greater of the 85th percentile of the 2018 RMR survey for that region or the RMR ceiling that existed in that region on December 31, 2017.

30) Requires that, upon an appropriation by the Legislature for these purposes, commencing with the 2021–22 fiscal year, and annually thereafter, the RMR ceilings be established at the greater of the 85th percentile of the 2018 RMR survey for that region or the RMR ceiling that existed in that region on December 31, 2017.

31) Requires that, upon an appropriation by the Legislature for these purposes, commencing January 1, 2022, and annually thereafter, reimbursement to license-exempt childcare providers not exceed 70% of the commensurate rate, including hourly, daily, weekly, and monthly, for both full-time and part-time care established pursuant to the RMR ceiling.

32) Requires CDSS to update the RMR survey methodology to include both of the following:

a) Age ranges and hours of service ranges pursuant to the reimbursement system plan; and,

b) Direction for the survey to mitigate the impact of contractors located in deep-poverty census tracts on the market profile or county rate.

EXISTING LAW:

1) Establishes the "Child Care and Development Services Act" to provide childcare and development services as part of a coordinated, comprehensive, and cost-effective system serving children from birth to 13 years old and their parents, including a full range of supervision, health, and support services through full- and part-time programs. (EC 8200 *et seq.*)

2) Defines "childcare and development services" to mean services designed to meet a wide variety of children's and families' needs while parents and guardians are working, in training, seeking employment, incapacitated, or in need of respite and states that these services may include direct care supervision, instructional activities, resource and referral programs, and alternative payment arrangements. (EC 8208)

3) States the intent of the Legislature that all families have access to childcare and development services, through resource and referral where appropriate, and regardless of demographic background or special needs, and that families are provided the opportunity to attain financial stability through employment, while maximizing growth and development of their children and enhancing their parenting skills through participation in childcare and development programs. (EC 8202)

4) Requires the Superintendent of Public Instruction (SPI) to administer general childcare and development programs to include, among other things as specified, age- and developmentally-appropriate activities, supervision, parenting education and involvement, and nutrition. Further allows such programs to be designed to meet child-related needs identified by parents or guardians, as specified. (EC 8240 and 8241)

5) Transfers responsibility for specified childcare programs, other than the CSPP, from the CDE to the DSS effective July 1, 2021. (Welfare and Institutions Code (WIC) 10203 et seq)

6) Requires families to meet certain criteria in order to be eligible for federal and state subsidized child development services, including that a family must be either a current aid recipient, income eligible, homeless, or one whose children are recipients of protective services or have been identified as being, or at risk of being, abused, or neglected, as specified. (EC 8263)

7) Requires the SPI to implement a plan that establishes reasonable standards and assigned reimbursement rates for childcare and development services, to vary by length of program year and hours of service, and establishes amounts for, and provides for an annual cost-of-living adjustment to, the SRR for contracted providers, and provides for adjustments to the SRR based upon specified reimbursement factors. (EC 8265 and 8266.1)

8) Requires the SRR for full-day CSPP, beginning July 1, 2018, to be $12,070 and beginning with the 2019-20 fiscal year, to be increased by the cost-of-living adjustment granted by the Legislature annually, as specified. (EC 8265)

9) Defines a "family childcare home education network" (FCCHEN) to mean an entity organized under law that contracts with the CDE, as specified, to make payments to licensed family child care home providers, and to provide educational and support services to providers and to children and families eligible for state-subsidized child care and development services. (EC 8208)

10) Provides for the establishment of RMR ceilings for voucher-based childcare, and states Legislative intent that childcare providers be reimbursed at the 85th percentile of the most recent RMR survey. (EC 8222, 8357, 8447)

FISCAL EFFECT: According to the Senate Appropriations Committee, while a precise estimate of this bill is unknown as it would largely depend on several variables, most notably the percentile and year of the regional market rate (RMR) survey to be used, the General Fund costs to establish the bill's new reimbursement rate structure for early learning and childcare programs could be in the high hundreds of millions to over a billion dollars at full implementation.

COMMENTS:

Need for the bill. According to the author, "SB 246 (The Child Care Stabilization Formula) would establish a single regionalized state reimbursement rate system for child care, preschool, and early learning services. Through these reforms, California can achieve a more equitable system to support children and families, as well as maximize public benefit.

California families are strengthened when given the opportunity to select the early learning experiences that are most appropriate for their children and families."

Background. The main state and federally funded early care and education programs serving children and families in California include, but are not limited to, the following:

- General Child Care and Development Programs include center-based or family childcare home care, provide part or full-time care for children from 0-5 years and out-of-school care for school age children up to age 13 from income eligible families who have a need for care.

- Alternative Payment Programs (APP) provide voucher-based child care subsidies to low-income parents to access child care through a wide range of providers. Includes vouchers offered through California's state welfare program, California Work Opportunity and Responsibility to Kids (CalWORKs), those for working families, as well as programs specifically for migrant children.

- California State Preschool Program (CSPP) provides center-based preschool for three and four year old children from income eligible families.

- Head Start and Early Head Start are federally-funded preschool and child development programs serving children from families with incomes below the federal poverty level, and offer education, child care, extensive family engagement, and wraparound services.

In the 2018-19 fiscal year, there are 182,347 subsidized childcare slots offered across the various programs, and 168,478 preschool slots through the CSPP.

Reimbursement rates: Two different sets of rate schedules apply to providers of subsidized childcare. For programs utilizing vouchers, which allow families to access child care through their choice of a licensed day care center, a licensed family child care home, or license-exempt child care (typically, care provided by a family, friend, or neighbor who has passed a background check), providers are reimbursed using the RMR. This rate is based on a biannual RMR survey of the cost of childcare in various geographical regions across the state. RMR rate ceilings are currently established at the 75th percentile of the 2016 RMR survey for a county, unless that ceiling is lower than the ceiling existing on December 31, 2017. RMR ceilings for license-exempt providers are set at the 70th percentile of a county's established RMR ceiling for family child care homes. 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

Providers of contracted care – childcare and development programs and CSPPs that contract directly with the CDE, as opposed to voucher-based care – are reimbursed according to a uniform statewide rate system based on the SRR. The fiscal year 2018-19 SRR for General Child Care 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. For example, the adjustment factor for infants (birth to 18 months) is currently 2.07.

Differing standards. Voucher programs funded under the RMR are required to meet Title 22 licensing standards, while direct contracted programs must meet both Title 22 as well as Title 5 educational requirements. The additional requirements under Title 5 include lower adult-to-child ratios, increased staff education and training, and child assessments, all of which contribute to higher costs. The current reimbursement system funds these programs with higher standards at a lower rate with no consideration for regional cost differences.

Assembly Blue Ribbon Commission on Early Childhood Education: The Assembly Blue Ribbon Commission on Early Childhood Education (BRC) was established with the intent to "plan an early learning system that works for/meets the needs of children, families, and providers." The BRC, consisting of members appointed from the Assembly and stakeholders, began its work in early 2017, holding quarterly hearings and establishing subcommittees. Quarterly hearings and subcommittee meetings continued during 2018, and work was done to develop BRC recommendations. The final report, issued on April 1, 2019 includes recommendations related to reimbursement rates:

- The BRC concurs with the multi-step recommendations of the Rates Working Group, convened by First 5 California, to implement comprehensive rate reform through a multi-step process. Their recommendations are moving towards a heavier emphasis on the true cost of providing quality child care, preschool and early learning experiences and address equity issues by refining the RMR survey and future rate-setting methodologies;

- In the long-term, the reimbursement rates for Title 5 and 22 programs should include competitive compensation that increases with quality improvement and as detailed in the Workforce recommendations;

- In the near term, the reimbursement rates for Family, Friend and Neighbor (FFN) should make the compensation floor the state minimum wage as detailed in the Workforce recommendations; and

- Prioritize analysis of the costs and as necessary provide additional incentives to increase access for targeted children and families including children with disabilities, infants and toddlers, children in care deserts including rural areas, care during nontraditional hours and children entering care through the Crisis Fund.

Master Plan for Early Learning and Care (Master Plan). The Budget Act of 2020 appropriated $5 million for a long-term strategic plan to provide a roadmap to comprehensive, quality, and affordable child care and preschool for children from birth through age twelve, including a fiscal framework that provides for ongoing funding to significantly expand early learning and care in the state, including options to generate needed revenues and examine alternative funding streams. The final report, *California for All Kids, Master Plan for Early Learning and Care,* was released in December 2020. The report recommends the adoption of a tiered reimbursement rate with appropriate adjustments:

> Adopting a new reimbursement rate structure provides an anchor to transform the early learning and care system around the key values of equity and quality. The current structure has multiple independent rates. It lacks cohesion. Moving to a tiered reimbursement rate would facilitate connections that are currently lacking and help clarify and encourage workforce development, a key factor in improving quality. California's subsidy reimbursement structure shares some features in common with other states but differs most notably on reimbursing for higher quality.

The Master Plan goes on to say that adopting a rate structure that includes all state-subsidized programs and funding would support:

- Equity: A unified approach would allow for a similar reimbursement given the program and child contexts—and the associated cost differential—regardless of the funding stream;

- Simplicity: A unified reimbursement structure would be less costly for the state to administer and for providers to manage; and

- Quality: Reimbursement rates would vary with key quality cost drivers such as the staff-child ratio and teacher qualifications, and would incentivize providers to adopt and maintain higher quality.

Arguments in support. EveryChild California writes, "California has two different and unaligned systems for funding the state's early learning services. This unaligned, two-system approach limits access, fails to maximize program quality, and forces many child care providers out of business in California. The current system provides inadequately low reimbursements to child care providers who are providing an essential service that supports children's development and families' economic well-being.

To address the problems of a bifurcated rate system, resource expenditure should be streamlined and expended in a way that: 1) compensates providers and programs for the cost of providing care, 2) is responsive to the state's economic diversity, 3) recognizes the costs of meeting varying quality standards, regulations and contracting burdens, and 4) incentivizes quality and participation in research-based quality improvement efforts as a means to improve child outcomes.

SB 246 would establish a single regionalized state reimbursement rate system for the state's mixed delivery system that achieves these four goals. Through these reforms, California can achieve a more equitable system to support children and families and maximize public benefit."

Related legislation. SB 174 (Leyva) of the 2019-20 Session would have required that specified providers of subsidized childcare be reimbursed based upon an updated RMR as of January 1, 2021; established the "Quality Counts California Pilot Reimbursement Program," to provide higher reimbursement rates to APP providers for meeting certain quality standards; and made the enactment of this bill contingent upon the enactment of AB 125. This bill was held in the Assembly Appropriations Committee.

AB 125 (McCarty) of the 2019 Session would have revised the state's system and rates for reimbursing subsidized child care and development programs to create a more uniform reimbursement system reflecting regional costs of care, and established the "Quality Counts California Pilot Reimbursement Program" as a pilot program to provide higher reimbursement rates to APP for meeting certain quality standards. This bill was held in the Senate Appropriations Committee.

AB 2125 (Ridley-Thomas) of the 2013-14 Session would have required the SPI to review the plan that establishes standards and assigns reimbursement rates for child care and development programs, and to submit recommendations for a single reimbursement system that reflects the actual current cost of child care based on the most recent regional market rate survey. This bill was held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

American Association of University Women - California
California Alternative Payment Program Association
California Association for The Education of Young Children
California Child Care Resource and Referral Network
Casa of Santa Cruz County
Catalyst Family Inc.
Child Care Alliance of Los Angeles
Child Care Providers United
Child Care Resource Center
Child360
Children Now
Children's Institute
Community Child Care Council of Sonoma County
Council for A Strong America

County of Los Angeles Board of Supervisors
County of San Mateo
County Welfare Directors Association of California
Early Care & Education Pathways to Success
Early Care and Education Consortium
Early Edge California
Everychild California
Fight Crime: Invest in Kids
First 5 Alameda County
First 5 Association of California
First 5 California
First 5 Humboldt
First 5 Monterey County & the Central Coast Early Childhood Advocacy Network
First 5 San Benito
First 5 San Diego
First 5 San Mateo County
First 5 Santa Clara County
First 5 Santa Cruz County
First 5 Shasta
First 5 Solano Children and Families Commission
First 5 Ventura County
Good2know Partners
League of Women Voters of California
Los Angeles County Chief Executive Office
Los Angeles Unified School District
Low Income Investment Fund
Mendocino County Office of Education
Mission: Readiness
Office of The Riverside County Superintendent of Schools
Parent Voices CA
Partnership for Children & Youth
Readynation
Riverside County Public K-12 School District Superintendents
Riverside; County of
San Diego for Every Child
San Mateo County Child Care Partnership Council
Santa Clara County Office of Education
Silicon Valley Community Foundation
The Early Childhood Alliance
The Education Trust - West
Triple P America Inc.
UDW Homecare Providers Union

Opposition

None on file

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