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Code: Section:

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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 9. PUBLIC SOCIAL SERVICES [10000 - 18999.98] (*Division 9 added by Stats. 1965, Ch. 1784.*)

PART 1.8. Child Care and Development Services Act [10207 - 10492.2] (*Part 1.8 added by Stats. 2021, Ch. 116, Sec. 260.*)

CHAPTER 22.5. Fraud and Overpayments [10388- 10388.] (*Chapter 22.5 added by Stats. 2021, Ch. 116, Sec. 260.*)

10388. (a) (1) The State Department of Education, in consultation with the State Department of Social Services, county fraud investigators, and other fraud investigation experts, shall perform an error rate study to estimate the percentage of errors, including, but not limited to, overpayments and fraud, in determinations of eligibility, the need for child care pursuant to paragraph (2) of subdivision (c) of Section 8208 of the Education Code, family fees, and reimbursement payments to child care providers, including, but not limited to, authorized hours of care and the use of adjustment factors, in programs operated pursuant to Chapter 3 (commencing with Section 10225) and Chapter 21 (commencing with Section 10370). The study shall include, but not be limited to, an analysis of a statistically valid, random, sample of family files and reimbursement payments that have been processed over a specified time. Each payment from the sample shall be audited to determine whether it was correctly paid or paid in error. Those payments identified as being paid in error shall be classified based on the type of the error that occurred, including, but not limited to, administrative errors, overpayment caused by providers, overpayments caused by parents, provider fraud, and beneficiary fraud.

(2) In conducting the compliance reviews required by regulations of the Superintendent of Public Instruction pursuant to Section 10267.5 for programs operated pursuant to Chapter 7 (commencing with Section 10240), the State Department of Education shall survey a statistically valid sample of files for the program and identify and report the errors, by category, resulting from that survey.

(3) The State Department of Education shall report in writing to the Governor, the Chair of the Joint Legislative Budget Committee, the chairs of the fiscal committees for both houses of the Legislature, and the Department of Finance, information regarding the error rate study by April 1, 2005. The report shall include, but not be limited to, all of the following:

- (A) The results of the error rate study.
- (B) Fraud and overpayment reduction targets that have been established based on the data from the error rate study.
- (C) The timeframe for achieving the targets.
- (D) Recommendations developed pursuant to subdivision (b).

(b) The State Department of Education shall develop recommendations for the prevention and elimination of child care fraud and programmatic errors and the identification and collection of child care overpayments. The recommendations shall include, but not be limited to:

- (1) Precise definitions of what constitutes child care fraud and overpayments.
- (2) A consistent statewide system to identify fraud and overpayments.
- (3) A consistent statewide system of standards for fraud prevention, intervention, and overpayment collection that is applied to all child care program provider categories.
- (4) Statewide fraud and overpayment measures that will be reported annually by the department.
- (5) Standards for independent financial compliance audits, including provisions to ensure that small programs are not unduly burdened.

(6) Consistent statewide mechanisms for due process for parents.

(7) Consistent statewide mechanisms for dispute resolution for child care programs and providers.

(8) Assessment of the cost-effectiveness of prevention and intervention activities.

(9) Equitable treatment of all consumers of subsidized child care.

(10) Consideration of the need to minimize new barriers to family access to child care.

(11) A survey of best practices from both California agencies and providers and from other states.

(c) In developing its recommendations, the State Department of Education shall place priority on prevention of fraud and overpayments, and shall consider existing best practices for doing so. The State Department of Education shall make any identified best practices available on its Internet Web site by March 1, 2005.

(d) The State Department of Education shall consult with representatives of the State Department of Social Services, the Legislative Analyst's Office, the Department of Finance, staff from the appropriate policy and fiscal committees of each house of the Legislature, and other interested parties including, but not limited to, child care consumers and providers, representatives from county welfare departments, district attorneys, county special investigative units, and legal advocacy organizations representing consumers in developing these recommendations.

(e) The State Department of Education shall report its recommendations directly to the respective policy and fiscal committees of the Legislature by April 1, 2005.

(f) On or after July 1, 2005, all child care contracts entered into by the State Department of Social Services for means-tested child care programs, including, but not limited to, the programs described in Chapter 3 (commencing with Section 10225), Chapter 7 (commencing with Section 10240), and Chapter 21 (commencing with Section 10370), shall require implementation of best practices identified pursuant to subdivision (c).

(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)