



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

AB-110 Early childcare and education. (2023-2024)

SHARE THIS:  

Date Published: 05/15/2023 09:00 PM

Assembly Bill No. 110

CHAPTER 4

An act to amend Sections 8242 and 8252 of the Education Code, and to amend Sections 10280, 10290, and 10374.5 of the Welfare and Institutions Code, relating to early childcare and education, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor May 15, 2023. Filed with Secretary of State May 15, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 110, Committee on Budget. Early childcare and education.

Existing law, the Early Education Act, among other things, requires the Superintendent of Public Instruction to administer all California state preschool programs, including, but not limited to, part-day and full-day age and developmentally appropriate programs for 3- and 4-year-old children. Existing law requires the State Department of Education, in collaboration with the State Department of Social Services, to implement a reimbursement system plan that establishes reasonable standards and assigned reimbursement rates for purposes of the act, and specifies the reimbursement rate for contractors. Existing law requires \$184,794,000 in one-time funding to be made available to address inequities between the standard reimbursement rate and the regional market rate ceiling for center-based childcare providers in the California state preschool program, among other programs, by providing reimbursement rate supplements.

This bill would, commencing July 1, 2022, and subject to available funding, authorize the department to issue temporary rate increases to contractors that exceed the existing specified rates and the previously described reimbursement rate supplements.

Existing law, the Child Care and Development Services Act, administered by the State Department of Social Services, establishes a system of child care and development services for children up to 13 years of age. Existing law requires the department, in collaboration with the State Department of Education, to implement a reimbursement system plan that establishes reasonable standards and assigned reimbursement rates, and specifies the reimbursement rate for contractors. Existing law also specifies the reimbursement rates for childcare services provided to CalWORKs recipients.

This bill would, commencing July 1, 2022, and subject to available funding, authorize the department to issue temporary rate increases to contractors and childcare providers that exceed those existing specified rates.

Existing law requires the State Department of Social Services, in consultation with the State Department of Education, to establish a fee schedule for families using preschool and child care and development services and requires families who utilize those services to be assessed a family fee that is based on income, certified family need for full-time or part-time care services, and enrollment. Existing law prohibits those family fees from being collected for the 2022–23 fiscal year.

Existing law allocates \$519,000,000 in previously appropriated federal funds, and appropriates \$60,000,000 in federal funds, to the State Department of Education, and requires the State Department of Education to transfer most of those funds to State

Department of Social Services to provide subsidized childcare and preschool providers with COVID-19 pandemic-related assistance, including, among other things, reimbursement for childcare and preschool contractors for family fees that are waived, as specified. Existing law also appropriates \$739,025,000 in federal funds to the State Department of Education to, upon order of the Department of Finance, be transferred to the State Department of Social Services for the purpose of expanding childcare access by funding additional slots under the alternative payment program and the general childcare and development program.

This bill would extend the prohibition on the collection of those family fees through September 30, 2023, and would require contractors to reimburse subsidized childcare providers for the full amount of the certificate or voucher without deducting family fees during this extended period. The bill would also make the above-described previously appropriated federal funds to expand childcare access slots and provide for family fee waivers and the reimbursement for waived family fees available in the 2023–24 fiscal year in an amount that is equal to the cost to extend family fee waivers from July 1, 2023, to September 30, 2023, inclusive, for all families receiving subsidized childcare services from childcare providers through specified programs administered by the State Department of Social Services. By extending the period of time in which previously appropriated funds are available for encumbrance and by expanding the purposes for which an existing appropriation may be expended, the bill would make an appropriation.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8242 of the Education Code is amended to read:

8242. (a) The department, in collaboration with the State Department of Social Services, shall implement 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.

(1) Parent fees shall be used to pay reasonable and necessary costs for providing additional services.

(2) The department may establish any regulations deemed advisable concerning conditions of service and hours of enrollment for children in the programs.

(b) (1) (A) Commencing July 1, 2021, the standard reimbursement rate shall be twelve thousand nine hundred sixty-eight dollars (\$12,968).

(B) Commencing July 1, 2021, the standard reimbursement rate for part-day California state preschool programs shall be five thousand six hundred twenty-one dollars (\$5,621).

(2) Commencing in the 2022–23 fiscal year, the standard reimbursement rates described in paragraph (1) shall be increased by the cost-of-living adjustment granted by the Legislature annually pursuant to Section 42238.15.

(c) (1) Commencing January 1, 2022, contractors who, as of December 31, 2021, received the standard reimbursement rate established in this section shall be reimbursed at the greater of the following:

(A) The 75th percentile of the 2018 regional market rate survey.

(B) The contract per-child reimbursement amount as of December 31, 2021, as increased by the cost-of-living adjustment pursuant to paragraph (2) of subdivision (b).

(2) Commencing July 1, 2022, subject to available funding, the department may issue temporary rate increases to contractors that exceed the rates specified in paragraph (1) and the reimbursement rate supplements described in Section 51 of Chapter 571 of the Statutes of 2022.

(3) In accordance with federal requirements for Child Care Stabilization Grants appropriated pursuant to the federal American Rescue Plan Act of 2021 (Public Law 117-2), contractors shall provide information via a one-time application or survey in advance of receiving American Rescue Plan Act funds. The department shall specify the timeline and format in which this information shall be submitted, and the information shall include, but not be limited to, all of the following:

(A) Address, including ZIP Code.

(B) Race and ethnicity.

(C) Gender.

(D) Whether the provider is open and available to provide childcare services or closed due to the COVID-19 public health emergency.

(E) What types of federal relief funds have been received from the state.

(F) Use of federal relief funds received.

(G) Documentation that the provider met certifications as required by federal law.

(4) Rate increases shall be subject to federal usage limitations and federal and state program eligibility requirements.

SEC. 2. Section 8252 of the Education Code is amended to read:

8252. (a) The Superintendent shall use the fee schedule developed in conjunction with the State Department of Social Services for families using full-day preschool services pursuant to this chapter, including families receiving services pursuant to subdivision (a) of Section 8211.

(b) Families shall be assessed a single flat monthly fee for all state subsidized early childhood services received, including California state preschool program services and services received through childcare and development programs administered by the State Department of Social Services, pursuant to Section 10290 of the Welfare and Institutions Code.

(c) The income of a recipient of federal supplemental security income benefits pursuant to Title XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.) and state supplemental program benefits pursuant to Title XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.) and Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code shall not be included in total countable income for purposes of determining the amount of the family fee.

(d) Family fees shall be assessed at initial enrollment and reassessed at recertification.

(e) Family fees shall be used by contractors to pay reasonable and necessary costs for providing additional services.

(f) It is the intent of the Legislature that the new family fees shall be cost neutral to the state and generate roughly the same amount of revenue as was generated under the previous family fee schedule.

(g) Notwithstanding any other provision of this article, family fees shall not be collected for the 2021–22 fiscal year pursuant to Section 263 of the act that added this subdivision.

(h) (1) Notwithstanding any other law, family fees shall not be collected for the 2022–23 fiscal year.

(2) Contractors shall reimburse providers operating within a family childcare home education network for the full amount of the certificate or voucher without deducting family fees.

(i) (1) Notwithstanding any other law, family fees shall not be collected between July 1, 2023, and September 30, 2023, inclusive.

(2) Contractors shall reimburse providers operating within a family childcare home education network for the full amount of the certificate or voucher without deducting family fees.

SEC. 3. Section 10280 of the Welfare and Institutions Code is amended to read:

10280. (a) The department, in collaboration with the State Department of Education, shall implement 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.

(1) Parent fees shall be used to pay reasonable and necessary costs for providing additional services.

(2) When establishing standards and assigned reimbursement rates, the department and the State Department of Education shall confer with applicant agencies.

(3) The reimbursement system, including standards and rates, shall be submitted to the Joint Legislative Budget Committee.

(4) The department may establish any regulations deemed advisable concerning conditions of service and hours of enrollment for children in the programs.

(b) Commencing July 1, 2021, the standard reimbursement rate shall be twelve thousand eight hundred eighty-eight dollars (\$12,888) and, commencing with the 2022–23 fiscal year, shall be increased by the cost-of-living adjustment granted by the Legislature annually pursuant to Section 42238.15 of the Education Code.

(c) (1) Commencing January 1, 2022, contractors who, as of December 31, 2021, received the standard reimbursement rate established in this section shall be reimbursed at the greater of the following:

(A) The 75th percentile of the 2018 regional market rate survey.

(B) The contract per-child reimbursement amount as of December 31, 2021.

(2) (A) Commencing July 1, 2022, subject to available funding, the department may issue temporary rate increases to contractors that exceed the rates specified in paragraph (1). The department shall have discretion in determining how funding may be used to increase the rates, including, but not limited to, providing one-time lump-sum payments. The department may contract with another entity to distribute this funding to contractors.

(B) Notwithstanding any other law, contracts or grants awarded pursuant to this subparagraph shall be exempt from the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, the Public Contract Code, and the State Contracting Manual, and shall not be subject to review or approval of the Department of General Services.

(3) In accordance with federal requirements for Child Care Stabilization Grants appropriated pursuant to the federal American Rescue Plan Act of 2021 (Public Law 117-2), contractors shall provide information via a one-time application or survey in advance of receiving American Rescue Plan Act funds. The department shall specify the timeline and format in which this information shall be submitted, and information shall include, but not be limited to, all of the following:

(A) Address, including ZIP Code.

(B) Race and ethnicity.

(C) Gender.

(D) Whether the provider is open and available to provide childcare services or closed due to the COVID-19 public health emergency.

(E) What types of federal relief funds have been received from the state.

(F) Use of federal relief funds received.

(G) Documentation that the provider met certifications as required by federal law.

(4) Rate increases shall be subject to federal usage limitations and federal and state program eligibility requirements.

SEC. 4. Section 10290 of the Welfare and Institutions Code is amended to read:

10290. (a) The department, in consultation with the State Department of Education, shall establish a fee schedule for families using preschool and child care and development services pursuant to this part including families receiving services pursuant to paragraph (1) of subdivision (b) of Section 10271. It is the intent of the Legislature that the new fee schedule shall be simple and easy to implement.

(b) The family fee schedule shall retain a single flat monthly fee per family. The schedule shall differentiate between fees for part-time care and full-time care.

(c) Using the most recently approved family fee schedule pursuant to subdivision (e) of Section 10436, families shall be assessed a single flat monthly fee for all state-subsidized services, including California state preschool program services administered by the State Department of Education, based on income, certified family need for full-time or part-time care services, and enrollment, and shall not be based on actual attendance. No recalculation of a family fee shall occur if attendance varies from enrollment unless a change in need for care is assessed.

(d) The department shall design the new 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, according to the methodology provided in subdivision (c) of Section 10271.5. The revised fees shall not exceed 10 percent of the family's monthly income. The department shall first submit the adjusted fee schedule to the Department of Finance for approval.

(e) The income of a recipient of federal supplemental security income benefits pursuant to Title XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.) and state supplemental program benefits pursuant to Title XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.) and Chapter 3 (commencing with Section 12000) of Part 3 shall not be included in total countable income for purposes of determining the amount of the family fee.

(f) Family fees shall be assessed at initial enrollment and reassessed at update of certification or recertification.

(g) It is the intent of the Legislature that the new family fees shall be cost neutral to the state and generate roughly the same amount of revenue as was generated under the previous family fee schedule.

(h) Notwithstanding any other provision of this chapter, family fees shall not be collected for the 2021–22 fiscal year pursuant to Section 263 of the act that added this section.

(i) Notwithstanding any other provision of this chapter, family fees shall not be collected for the 2022–23 fiscal year.

(j) During the 2022–23 fiscal year, contractors shall reimburse subsidized childcare providers for the full amount of the certificate or voucher without deducting family fees.

(k) (1) Notwithstanding any other provision of this chapter, family fees shall not be collected between July 1, 2023, and September 30, 2023, inclusive.

(2) Between July 1, 2023, and September 30, 2023, inclusive, contractors shall reimburse subsidized childcare providers for the full amount of the certificate or voucher without deducting family fees.

(3) Notwithstanding any other law, federal funds that were previously appropriated in Sections 263 and 265 of Chapter 116 of the Statutes of 2021 to expand childcare access slots and provide for family fee waivers and the reimbursement for waived family fees shall be available in the 2023–24 fiscal year in an amount that is equal to the cost to extend family fee waivers between July 1, 2023, and September 30, 2023, inclusive, for all families receiving subsidized childcare services from childcare providers through programs administered by the State Department of Social Services pursuant to Chapter 3 (commencing with Section 10225), Chapter 6 (commencing with Section 10235), Chapter 7 (commencing with Section 10240), Chapter 8 (commencing with Section 10250), Chapter 9 (commencing with Section 10260), Chapter 21 (commencing with Section 10370), and Section 11461.6.

SEC. 5. Section 10374.5 of the Welfare and Institutions Code is amended to read:

10374.5. (a) The cost of childcare services provided under this chapter shall be governed by regional market rates. Recipients of childcare services provided pursuant to this chapter shall be allowed to choose the childcare services of licensed childcare providers or childcare providers who, by law, are not required to be licensed, and the cost of that childcare shall be reimbursed by counties or agencies that contract with the department if the cost is within the regional market rate. For purposes of this section, “regional market rate” means care costing no more than 1.5 market standard deviations above the mean cost of care for that region. It is the intent of the Legislature to reimburse childcare providers at the 85th percentile of the most recent regional market rate survey.

(b) (1) The regional market rate ceilings shall be established at the greater of either of the following:

(A) The 75th percentile of the 2016 regional market rate survey for that region.

(B) The regional market rate ceiling that existed in that region on December 31, 2017.

(2) Commencing January 1, 2022, the regional market rate ceilings shall be established at the greater of either of the following:

(A) The 75th percentile of the 2018 regional market rate survey for that region.

(B) The regional market rate ceiling that existed in that region on December 31, 2021.

(c) (1) Reimbursement to license-exempt childcare providers shall not exceed 70 percent of the family childcare home rate established pursuant to subdivision (b).

(2) Commencing January 1, 2022, license-exempt childcare providers shall be reimbursed at 70 percent of the family childcare home rate established pursuant to subdivision (b), including hourly, daily, weekly, and monthly, for both full- and part-time reimbursement categories.

(d) (1) Commencing July 1, 2022, subject to available funding, the department may issue temporary rate increases to licensed childcare providers that exceed the rates specified in paragraph (2) of subdivision (b) and to licensed-exempt childcare providers that exceed the rates specified in paragraph (2) of subdivision (c). The department shall have discretion in determining how funding may be used to increase the rates, including, but not limited to, providing one-time lump-sum payments. The department may contract with another entity to distribute this funding to childcare providers.

(2) Notwithstanding any other law, contracts or grants awarded pursuant to this subparagraph shall be exempt from the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, the Public Contract Code, and the State Contracting Manual, and shall not be subject to review or approval of the Department of General Services.

(e) (1) In accordance with federal requirements for Child Care Stabilization Grants appropriated pursuant to the federal American Rescue Plan Act of 2021 (Public Law 117-2), childcare providers shall provide information via a one-time application or survey in advance of receiving American Rescue Plan Act funds pursuant to paragraph (2) of subdivision (b) or paragraph (2) of subdivision (c). The department shall specify the timeline and format in which this information shall be submitted, and information shall include, but not be limited to, all of the following:

(A) Address, including ZIP Code.

(B) Race and ethnicity.

(C) Gender.

(D) Whether the provider is open and available to provide childcare services or closed due to the COVID-19 public health emergency.

(E) What types of federal relief funds have been received from the state.

(F) Use of federal relief funds received.

(G) Documentation that the provider met certifications as required by federal law.

(2) Rate increases shall be subject to federal usage limitations and federal and state program eligibility requirements.

(f) Reimbursement to childcare providers shall not exceed the fee charged to private clients for the same service.

(g) Reimbursement shall not be made for childcare services when care is provided by parents, legal guardians, or members of the assistance unit.

(h) A childcare provider located on an Indian reservation or rancheria and exempted from state licensing requirements shall meet applicable tribal standards.

(i) For purposes of this section, "reimbursement" means a direct payment to the provider of childcare services, including license-exempt providers. If care is provided in the home of the recipient, payment may be made to the parent as the employer, and the parent shall be informed of their concomitant legal and financial reporting requirements. To allow time for the development of the administrative systems necessary to issue direct payments to providers, for a period not to exceed six months, a county or an alternative payment agency contracting with the department may reimburse the cost of childcare services through a direct payment to a recipient of aid rather than to the childcare provider.

(j) Counties and alternative payment programs shall not be bound by the rate limits described in subdivisions (a) and (b), when there are, in the region, no more than two childcare providers of the type needed by the recipient of childcare services provided under this chapter.

(k) (1) Notwithstanding any other law, reimbursements to childcare providers based upon a daily rate may only be authorized under either of the following circumstances:

(A) A family has an unscheduled but documented need of six hours or more per occurrence, such as the parent's need to work on a regularly scheduled day off, that exceeds the certified need for childcare.

(B) A family has a documented need of six hours or more per day that exceeds no more than 14 days per month. Reimbursements to a childcare provider based on the daily rate over one month's time shall not exceed the childcare provider's equivalent full-time monthly rate or applicable monthly ceiling.

(2) This subdivision shall not limit childcare providers from being reimbursed for services using a weekly or monthly rate, pursuant to subdivision (c) of Section 10228.

SEC. 6. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.