



CHILD CARE LAW CENTER

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Preliminary Overview of Child Care Provisions in the California Budget Signed July 28, 2009

The Child Care Law Center is deeply disturbed by the severe cuts contained in the FY 2009-2010 Budget Bill compounded by the Governor's line item vetoes. In mid-June the Conference Committee members sought public input as they attempted to craft a balanced budget compromise. CCLC attended the public hearings and heard the wrenching stories from real people describing the enormous human costs that would result from the Governor's proposed cuts. The Conference Committee rejected the most onerous cuts, and CCLC reluctantly supported the Committee's compromise budget. Rather than accepting the compromise, the Governor and minority party exacted even greater costs from our children, the elderly, and people with disabilities and from the future of California before signing the Budget. The Legislative leadership has committed to reversing the cuts made by the Governor's line item vetoes and we support those efforts.

This memo provides an overview of the child care provisions. We will be providing more in-depth analysis of the budget and trailer bill provisions in the coming weeks and the implications of the cuts to related programs, including education. We will work with our partners to mitigate the immediate impact of cuts, and advocate for longer-term reform of the budget process to ensure that future budgets include revenue solutions and reweave the safety net.

The Budget rejects the Governor's proposed elimination of CalWORKs cash assistance and the dismantling of CalWORKs child care. However the Budget makes several significant policy changes to the CalWORKs program that are scheduled to take effect in 2011. These policy changes will result in severe reductions to CalWORKs Safety Net and Child Only families.¹

1. CalWORKs Child Care

- The Budget includes a significant \$375 million cut to the CalWORKs single allocation to counties for 2009-10.² The single allocation is used by counties to fund Stage 1 child care, employment services and transportation.
- The Stage 1 child care program is maintained with the following changes:
 - Through June, 2011³ a parent who has primary responsibility for personally providing care to one child from birth up to 24 months old may be exempt from welfare to work (WTW) activities⁴ though they may still volunteer.⁵ Exempt parents who volunteer are eligible for child care services. A parent with two or more children under the age of six may also be exempt from WTW activities.⁶ The 60-month time clock on receipt of assistance will not run during months recipients are exempt.⁷ DSS and CWDA are required to develop a process to assist these exempt recipients with reengagement in WTW activities by July 1, 2011.⁸ Reengagement activities may include identifying necessary supportive services such as child care.

- The 60-month time clock on receipt of assistance is also stopped when a recipient has been excused from participation for good cause due to lack of necessary supportive services, including child care,⁹ or the recipient is determined to be exempt from participation in WTW activities due to caretaking responsibilities that impair the recipients' ability to be regularly employed.¹⁰ These provisions are operative through June 2011.
- The Budget maintains funding for CalWORKs Stage 2 and Stage 3 child care, (the Legislature restates its intent to fully fund Stage 3¹¹) and includes \$393 million for the Stage 3 set-aside.¹² The Budget also provides \$27.4 million for CalWORKs Stage 3, available on a one-time basis from federal Child Care and Development Block Grant funds appropriated prior to the 2009 federal fiscal year.¹³ The anticipated growth in Stage 2 and 3 caseloads will be augmented with federal American Recovery and Reinvestment Act (ARRA) funds.¹⁴
- The Budget requires CDE to conduct monthly analyses of CalWORKs Stage 2 and Stage 3 caseloads and expenditures and adjust agency contracts to ensure funds are distributed proportionally to need. CDE is required to provide DSS with detailed quarterly, county-by-county information regarding the sufficiency of funding for Stage 2 and Stage 3 as a basis for comparisons with Stage 1 trends. CDE is also required to provide DSS with detailed information on Stages 2 and 3 to facilitate budget development. CDE must provide DSS with access to data elements necessary to comply with federal reporting requirements and any other information deemed necessary to improve estimation of child care budgeting needs.¹⁵
- Families on CalWORKs cash aid are exempt from paying family fees, based on a law passed last year,¹⁶ despite efforts by the administration to reverse this provision.
- The Budget provides \$4,000,000 to train former CalWORKs recipients as child care teachers, requiring administrative costs to be minimized to allow for maximum enrollment, and with priority for funding given to programs at community colleges that have demonstrated high completion rates; and \$2,500,000 for training license-exempt child care providers, with priority given to participants serving subsidized children.¹⁷

2. Alternative Payment and Other Child Care Programs

- The Budget retains the 2007-08 family income eligibility limits for the 2009-10 fiscal year.¹⁸
- The Budget maintains family fees at current levels. The Family Fee schedule for 2007-08 and 2008-09 remains in effect for the 2009-10 fiscal year, and retains a flat fee per family.¹⁹ The Department of Education (CDE) is required to adjust the schedule for family fees to reflect updated State Median Income data provided by the Department of Finance, but is prohibited from making changes in the family fee schedule mid-year.²⁰
- The Budget maintains the reimbursement rate ceilings for child care providers at the 85th percentile of the Regional Market Rate (RMR) in the 2005 survey,²¹ rather than lowering the rate ceilings to 75% of the 2007 survey.

- The Budget limits the circumstances under which child care providers may be reimbursed using a daily rate. Providers caring for subsidized children are reimbursed based on the rate they charge to nonsubsidized families for the same services, up to the Regional Market Rate ceiling. Some providers use a daily rate for all families. This Budget provision allows providers receiving subsidies to be paid their daily rate only when the parent has an unscheduled but documented need of six hours or more per occurrence that exceeds the certified need for care, or a documented need of six hours or more per day for no more than 14 days per month. Reimbursement based on a daily rate cannot exceed the provider's full-time monthly rate.²²
- The Budget accepts the Legislative Analyst's Office (LAO) proposal to eliminate the Extended Day Care Program (Latchkey) for school-age children.²³ The program has been extended until August 31, 2009 for children currently in the program. The Legislature stated its intent to have children who are displaced as a result of this program becoming inoperative receive services through the After School Education and Safety Program or other subsidized child care.²⁴
- The Budget takes for reapportionment: \$282,000 in unexpended preschool and child care funds from Schedules (1) and (1.5) of Item 6110-196-0001 of the Budget Act of 2004; \$143,000 from 2005; \$2,546,000 from 2006; \$32,017,000 from 2007; \$2,911,000 from 2008; and \$27,636,000 in the unexpended balance of the amount appropriated for CalWORKs Stage 2 and Stage 3 child care programs in Schedules (1.5)(e) and (1.5)(f) of Item 6110-196-0001 of the Budget Act of 2008.²⁵ In that same provision, \$65,535,000 is re-appropriated to CDE for the purpose of funding State Preschool Programs in the 2009-10 fiscal year.²⁶
- The Budget also includes \$1 million for Trustline registration workload, \$500,000 for health and safety training for licensed and exempt child care providers, \$300,000 for the child care Health Hotline, \$300,000 for a technical assistance program for child care facility financing,²⁷ \$320,000 for the Child Development Training Consortium and \$15 million for child care worker recruitment and retention programs.²⁸
- Child Care Resource and Referral Agencies are funded at \$19,438,000.²⁹
- The Budget provides \$250,000 for consulting services to conduct a study of the characteristics of families and costs of care.³⁰ CDE is required to collect the following information:
 - Profiles of the subsidized population:
 - Numbers, ages and proportion of subsidized children and families by type of subsidized care (e.g., family child care homes, centers, license-exempt providers); by family income and family size;
 - Numbers and proportions of children utilizing more than one type of subsidized child care;
 - Work status of parents of children receiving subsidized child care;
 - Numbers and proportions of children in full-time care and in part-time care;
 - Ages of children at time of entry into a subsidized child care program; and

- Numbers and proportions of foster children receiving subsidized child care.
- CDE is also required to:
 - Quantify the family fees collected,
 - Estimate the family copayments collected,
 - Provide the number and proportion of children and families paying family fees,
 - Estimate the number and proportion of children and families subject to copayments;
 - Estimate the number of children and families exempted from family fees by income level and family size, and to identify and classify the reasons for fee exemptions;
 - Determine the monthly rates of attrition of families;
 - Determine the number and percentage of families receiving child care by category of eligibility and need;
 - Determine the relative distribution of families entering the system by family income and size; and
 - Determine, for each alternative payment-based program, the incidence, relative proportion, and dollar magnitude of actual care payments per child and family that are in excess of or below the current mean-market rates.

CDE must provide the data to DSS, DOF and the LAO by September 1, 2010.³¹

3. Overpayments and Fraud

- The Budget rejects the Governor's proposal to reduce child care slots through the mechanism of "overpayment" reduction or recovery. However, the Budget contains a provision requiring CDE, in consultation with DSS and other stakeholders, to develop a plan by October 1, 2009 to reduce and recover overpayments from child care and development programs, and to submit the plan to DOF for consideration and potential inclusion in the Governor's January Budget. CDE is mandated to provide recommendations for payment recovery that seek to maximize California's receipt and use of federal funds and for implementing aggressive corrective measures to minimize payment errors, including rebidding contracts for contractors with high error rates, reducing administrative allowances, and prohibiting payment to providers that continue to submit erroneous reports.³²
- The Budget provides \$1.5 million for 13 positions in CDE to address compliance monitoring and overpayments in an effort to enhance early detection of fraud. CDE is required to provide information to the Legislature and Department of Finance each year that quantifies, by program, provider-by-provider level data, including instances and amounts of overpayments and fraud, and a copy of any federal reports submitted regarding improper payments and fraud.³³
- Alternative payment programs and general child care agencies will be audited each year regarding: (1) family fee determinations, (2) income eligibility, (3) rate limits, and (4) basis for hours of care, to determine any instances of misallocation of resources, and the amount of funds expected to be recovered from potential fraud and non-fraudulent overpayments. This information will be submitted in a report to the Governor and the Legislature.³⁴

4. ARRA Child Care & Development Block Grant Funds

- The Budget includes the Conference Committee proposal regarding use of \$110,137,000 in federal American Recovery & Reinvestment Act (ARRA) funds:³⁵ The direct service funds are allocated to:
 - Reverse February cuts to General Child Care (\$17.3 million) and Migrant Day Care programs (\$3.1 million);
 - Increase alternative payment program child care slots (\$15.4 million); and
 - Fund increased Stage 2 (\$36.2 million) and Stage 3 (\$18.9 million) caseload.CDE must ensure that families receiving Alternative Payment or Migrant Day Care services with ARRA funds are advised that they will no longer receive services once the ARRA funds are exhausted unless that can be accommodated through attrition in other programs.³⁶
- The \$18,783,000 in ARRA quality funds include \$5.2 million for infants and toddlers and \$1.8 million for improvement of the quality of care for children from birth to five years of age.

5. Community Care Licensing

- The Budget rejects the most severe cuts to Community Care Licensing (CCL).
 - The Budget rejects the May Revision proposal to eliminate all General Fund Support for CCL, increase fees by 50 to 80 percent and require family child care homes to self certify.
 - It rescinds previous increases in positions and retains a 10% fee increase.³⁷
 - A total of \$8 million in federal CCDF quality funds are used to offset a portion of the cost.³⁸

6. Additional Cuts to Low Income Children by Governor's Line Item Vetoes

The Governor reduced the Budget by an additional \$497.2 million, with the majority of those cuts (\$394 million) coming out of health and human services programs.³⁹ The Governor's cuts include:

- An additional \$50.0 million cut to state funding for Regional Center services for children up to age 5 who have developmental disabilities. In his veto message, the Governor directs his staff "to immediately request" funding from the state First 5 Commission to backfill the General Fund reduction.
- An additional \$80 million cut to Child Welfare Services which, when lost federal matching funds are included, results in a total child welfare cut of \$124 million. This represents 755 lost county child welfare workers across the state who could have investigated 143,000 reports of abuse or neglect, or worked to reunify 20,400 foster children with their families.⁴⁰
- An additional \$50 million cut to state funding for Healthy Families. Combined with cuts already approved by the Legislature, this veto increases the total state reduction for Healthy Families to \$174 million in 2009-10, jeopardizing health care for hundreds of thousands of children.

- Elimination of the remaining state funding for the Domestic Violence Shelter Program for additional savings of \$16.4 million in 2009-10.
- Elimination of the remaining state funding for the Black Infant Health Program for additional savings of \$3.0 million in 2009-10.

¹ California Budget Project, "Governor Signs Budget Revisions," revised July 30, 2009, p.1-2;

http://www.cbp.org/documents/090727_Governor_Signs_Budget.pdf

² Id.

³ ABX4 4, Sec. 14, p.30 ; WIC §11320.3(g)(1)

⁴ ABX4 4, Sec. 14, p.29 ; WIC §11320.3(b)(7)

⁵ ABX4 4, Sec. 14, p.29 ; WIC §11320.3(c)

⁶ ABX4 4, Sec. 14, p.29 ; WIC §11320.3(b)(7)

⁷ ABX4 4, Sec. 14, p.34 ; WIC §11454.5(a)(6)

⁸ ABX4 4, Sec. 14, p.30 ; WIC §11320.3(g)(2)

⁹ ABX4 4, Sec. 14, p.34 ; WIC §11454.5(a)(6)

¹⁰ ABX4 4, Sec. 14, p.34; WIC §11454.5(a)(7)

¹¹ ABX4 2, Sec. 7, p.15; EC §8447(b)(4).

¹² ABX4 1, Sec. 439, p.287; 6110-196-0001, Schedule (1.5)(f).

¹³ ABX4 1, Sec. 440, p.295; 6110-196-0890, prov. (5).

¹⁴ ABX4 1, Sec. 443, p.297; 6110-196-0001.

¹⁵ ABX4 1, Sec. 439, p.290; 6110-196-0001, prov. (5).

¹⁶ ABX4 2, Sec. 7, p.16; EC §8447(g).

¹⁷ ABX4 1, Sec. 439, p.289; 6110-196-0001, prov. (3)(d).

¹⁸ ABX4 1, Sec. 439, p.292; 6110-196-0001, prov. (8)(a).

¹⁹ ABX4 1, Sec. 439, p.292; 6110-196-0001, prov. (8)(b).

²⁰ ABX4 2, Sec. 7, p.16; EC §8447(e).

²¹ ABX4 2, Sec. 6, p.13; EC §8357(a); ABX4 1, Sec. 439, p. 289; 6110-196-0001, prov.(1)(b).

²² ABX4 2, Sec. 6, p.14; EC §8357(g).

²³ ABX4 2, Sec. 8, p.16; EC §§8480, 8481.

²⁴ ABX4 1, Sec. 439, p.294; 6110-196-0001, prov. (14).

²⁵ ABX4 1, Sec. 460, pp.310-311; 6110-488.

²⁶ ABX4 1, Sec. 460, pp.312; 6110-488, prov. (1).

²⁷ ABX4 1, Sec. 439, p.289; 6110-196-0001, prov. (3)(d).

²⁸ ABX4 1, Sec. 439, p.290; 6110-196-0001, prov. (4).

²⁹ ABX4 1, Sec. 439, p.287; 6110-196-0001, Schedule (1.5)(g).

³⁰ ABX4 1, Sec. 401, p.250; 6110-001-0890, prov. (6)(a).

³¹ ABX4 1, Sec. 439, p.293; 6110-196-0001, prov. (13).

³² ABX4 1, Sec. 401, p.250; 6110-001-0890, prov. (6)(c).

³³ ABX4 1, Sec. 401, p.250; 6110-001-0890, prov. (6)(a).

³⁴ ABX4 1, Sec. 401, p.250; 6110-001-0890, prov. (6)(b).

³⁵ ABX4 1, Sec. 443, p.297-298; 6110-198-0890.

³⁶ ABX4 1, Sec. 443, p.298; 6110-198-0890, prov. (2).

³⁷ ABX4 4, Sec. 7, p. 17, HSC §1596.803.

³⁸ ABX4 1, Sec. 439, p. 289; 6110-196-0001, prov. 3(d).

³⁹ California Budget Project, "Governor Signs Budget Revisions," revised July 30, 2009, p.1;

http://www.cbp.org/documents/090727_Governor_Signs_Budget.pdf.

⁴⁰ CWDA Press release, "Governor to Abused Children: Sorry We Can't Help You," July 28, 2009, available at:

<http://cwda.org/downloads/priorities/budget2009/PressReleaseVetoes7-28.pdf>.