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Assembly Budget Committee Subcommittee 1 on Health and Human Services Hearing April 27, 2005

5180 Department of Social Services Issue 1: Community Care Licensing Inspection Visits

We are gravely concerned that the Governor's budget includes a provision to delete a section of the Health and Safety Code that requires the Department to conduct additional visits to licensed facilities if an increase in citations exceeds 10% of licensed facilities. The reduction is estimated to be \$2.6 million General Funding in the Budget year.¹ This trigger was inserted by the Legislature so that the Department would be required to sample 20% of providers each year rather than 10%. This would still result in a visit every 5 years. We are also very concerned that the Department has not met the 10% requirement.

Once a model, California has fallen so that it has become among the least rigorous of the states in licensing caseloads.² Additionally, it also has one of the lowest frequencies of inspections nationally.³ In combination, these faulty practices serve to endanger *all* children in out-of-home care.

The law was originally written so that just such an increase in citations would lead to an automatic increase in funding for Licensing to conduct additional visits. This is an example where an automatic trigger increase, based on statistical evidence, is sound policy. We must ensure the basic health and safety of children in out-of-home care by paying for a sufficient number of regulators to inspect child care facilities on a regular basis.

CCLC Recommendation: Avoid further reductions, and review the previous cuts to the licensing system, now being implemented, that place children's health and safety at risk. Additionally, appropriate funds to return to the licensing system's earlier visitation schedule—annually for centers and tri-annually for family child care—while developing funding for annual visits to all licensed providers. The Legislature should also review the impact of the staffing cuts in the child care advocate program and consider restoring it to at its previous capacity, as well as increasing availability of linguistically and culturally accessible information for parents and child care providers.

6110 Department of Education Issue 4: Tiered Reimbursement of License Exempt Providers

CCLC has long advocated thoughtful consideration of the complex and controversial issues implicit in state subsidy of license-exempt care. We have undertaken efforts to support and improve the quality of license-exempt care through our annual Child Care Policy Workgroup process, our testimony before the Assembly Human Services Committee, our participation in hearings called by the Legislative Women's Caucus, and our presentations to the Working Family Summit in 2004 and 2005.

Unfortunately, the Governor's proposal is far from thoughtful. He would claim to increase child care "quality" through a draconian reduction in reimbursement rates to license-exempt child care providers, who now earn 90 percent of the Family Child Care ceiling. Those with no training after 180 days would be cut to 55 percent of the Family Child Care ceiling, while those who obtain some training or a license would be cut to 60 percent. But the current training infrastructure simply could not provide training within this time frame.

This proposal: 1) undermines parents' right to choose the type of care best-suited to their family's needs; 2) will harm the most vulnerable families; and 3) is inequitable, potentially reducing involvement of the most appropriate license-exempt caregivers while providing no funds for the education and training that would enable them to receive the higher rate.

Parental Choice. Under federal law, families using voucher-based child care subsidy programs (including CalWORKs child care) have a right to choose the type of provider they believe is best for their children. Many families, both CalWORKs and non-CalWORKs, choose license-exempt care for a variety of reasons. Low income families, who often live in areas with limited formal child care options, are frequently under pressure to find a caregiver quickly and turn to family, friends, and neighbors to provide immediate care for their children, particularly for infants and toddlers.

Impact on Vulnerable Families. While it is not clear how many parents with real alternatives choose license-exempt care, many who do so have infants or children with special needs; live in geographically isolated areas, whether rural or urban; live in areas with few if any licensed care providers; work odd hours or rotating shifts; are culturally and linguistically diverse families, unfamiliar with the formal care system, who rely on extended family networks for care of young children; or are new to CalWORKs assistance.⁴

Inequity. The Governor's proposal to reduce rates significantly for license-exempt providers is inequitable, contradictory, and undermines the possibility of widespread improvement in quality. The Governor asserts that license-exempt care by neighbors and family members "does not require a large state subsidy to be induced" as justification for the rate reduction. While it is true that license-exempt caregivers are often motivated by their relationship to the family, frequently they too must find a way to earn a living wage. It is inequitable—and unrealistic—to rely on license-exempt caregivers to provide quality care while cutting reimbursement for that care.

CCLC Recommendation: Because license-exempt care is a critical resource for low-income parents and the entire subsidized care system, maintain rates at an adequate level. Also, in adopting any policy reforms of the licensed-exempt segment of the child care system, respect parental choice, minimize impacts on vulnerable families and treat license-exempt providers with fairness.

Issue 5: Tiered Reimbursement for Licensed Care

The current proposal envisions that the highest quality licensed family child care providers would be paid up to the 85th percentile of the Regional Market Rate (RMR). Others, depending on their ratings, would receive a maximum of 75 percent or 85 percent of the 85th percentile.

Rate structures for licensed centers would be similar, and the impact could be even greater difficulty in hiring and retention, especially in programs that spend a high proportion of funds on employee salaries. Many centers in underserved areas have already closed, and this proposal could force even more to do so

This proposal contains no funds to increase training opportunities, provide alternative child care while these caregivers are in training programs, or expand linguistically and culturally appropriate training. There is also no financial incentive to cover the cost of improving quality. We also find it a grave inequity to require child care providers to achieve high standards with no support. The family child care homes and high quality centers in our lowest income neighborhoods can not reach higher quality standards such as accreditation which often requires classes, staff training programs, facility improvements and other expenses without financial support. The only funds in the Governor's budget are for evaluators.

We also must build an infrastructure, with community college and university capacity to support providers and evaluate programs. Legislators should carefully consider the workforce recommendations developed by the statewide Blue Ribbon Committee on Workforce Development sponsored by First 5 California. This committee will be making numerous proposals to ensure the professional preparation of a well-trained, culturally and linguistically diverse workforce for California's early care and education system, including higher education infrastructure development.

We are also concerned that there is no process to determine quality standards. Los Angeles and San Francisco counties have both done extensive work on setting such standards. The lessons of both processes is that comprehensive planning must precede the development of standards, and providers in our lowest income communities can only improve their quality if they receive support and training to do so.

We are concerned that the Governor's proposal will reduce the participation in the subsidy system of our highest quality family child care homes and child care centers that are reimbursed through the RMR; in many cases these are already on the brink of financial failure with the current reimbursement rate of only 85 percent of the Regional Market Rate.

CCLC Recommendation: No further cuts in reimbursement rates should be imposed on child care providers who care for children in the subsidized system. Rather, we should design a rate system that will reward quality, maintain parental choice, and support providers, including license-exempt providers who improve program quality, without reducing reimbursement rates for current providers. The actual cost of improving quality should be determined and then funded.

Issue 6: Standard Reimbursement Rate

The Governor's Budget contains no proposal to increase the Standard Reimbursement Rate (SRR). This rate which, because it supports the higher standards required by Title 5, should be maintained at or above the RMR throughout California. In many counties our highest quality Title 5 centers are unable to care for children at the current reimbursement rate, which does not come close to covering the real cost of providing care. Just as we are establishing school readiness programs and moving to establish Universal Preschool, we risk losing many of our highest quality center based programs for children.

The Desired Results for all California Department of Education programs, including the contracted child care centers are respected throughout the country as high-quality educational standards. A recent study of child care centers by Policy Analysis for California Education (PACE) found that “[t]he average level of quality — gauged by several indicators — for the 170 participating centers is quite high. Thus, despite the fact that sampled centers were in low-income communities, quality levels are on par with, or higher than, centers included in earlier national studies in middle class neighborhoods.”⁵ Our already vulnerable network of contracted state centers are in jeopardy due to the inadequacy of the SRR.

CCLC Recommendation We support raising the Standard Reimbursement Rate used to fund state-contracted child development programs, so it is at a minimum equal to the RMR. In the longer runs we should determine the real cost of quality care and establish a rate adequate to support high quality, comprehensive programs.

Issue 7: Administration and Error Rates In Vouchered Child Care Programs

CCLC Recommendation

Issue 8: Regional Market Rate Methodology Update

CCLC Recommendation CCLC concurs with the staff recommendation that the Legislature receive a report on the potential impacts on families and our fragile child care system prior to implementing a new methodology based on zip codes. The goal should be both accuracy and equity.

Issue 9: In and Out of Market Rate Setting Implementation

Integration of the subsidized care system fully with the larger child care system is a worthwhile goal, and many providers who care for private pay families also serve subsidized children. Some, however, particularly in areas of concentrated poverty, care only for children with subsidies, as no neighborhood families can afford the cost of care.

The Legislature explicitly reserved the right to address these issues by stating, in the Trailer Bill, its intent “to address the issue of child care in and out of market rate differentiation in the statutory process.” To ensure its opportunity to do so, the Legislature explicitly required suspension of regulations that would have imposed a particularly onerous approach to establishing rates for providers serving subsidized children.

We are concerned about the regulations which impose an unreasonable and unnecessary administrative burden regarding documentation of rates on providers who serve subsidized families, and on the County Welfare Departments and Alternative Payment Programs that contract with CDE to administer child care payments. These regulations likely intrude significantly into the privacy of unsubsidized families, in violation of the Information Practices Act of 1977 governing the collection and disclosure of personal information by state government.

The staff analysis concurs with our understanding that the vast majority of providers do seek to have private paying families and this are incentivized to establish competitive rates.

CCLC Recommendation: We support the staff recommendation to develop an alternate proposal and agree with the goals outlined.

Issue 10: CalWORKs Stage 3 Child Care and Waiting List Changes

We are committed to increased access to child care for *all* low-income working families, but this goal will not be achieved by reducing CalWORKs families' eligibility for child care. The Governor's proposal achieves no savings in the budget year and changes CalWORKs child care policy significantly, applying time limits only to families who enter the subsidized child care system through CalWORKs. While a family receives CalWORKs cash assistance and the adult is working or participating in a welfare-to-work activity, an otherwise-eligible family has a right to CalWORKs child care in either Stage 1 or Stage 2.⁶ An adult who transitions off cash assistance has a right to subsidized child care, if financially eligible, for an additional 24 months.⁷ Thereafter, the family may transition to Stage 3 if a funded slot is available.⁸ Legislative intent is clear: "former recipients who have left aid for employment...continue to receive child care services after they no longer receive aid as long as they require those services and meet the eligibility requirement."⁹

The Governor proposes to make CalWORKs child care time limited; current CalWORKs families would have a maximum of three years of guaranteed child care eligibility after leaving cash aid and could then transition to the general alternative payment program.¹⁰ The intent of Stage 3 child care was to bring CalWORKs families into the general child care system as rapidly as possible. But joining the 280,000 families already on waiting lists does not give these families any realistic hope of obtaining a child care subsidy.¹¹ Most families who transition off CalWORKs cash assistance have very low incomes and few prospects of earning more.¹²

CCLC Recommendation: Families who successfully transition off cash aid should continue to be eligible for child care assistance until their income reaches at least 75 percent of the state median. They should be subject to the same child care assistance rules as other families in the subsidized system, none of whom are subject to time limits. It is highly unlikely that child care slots will become available for them, so for many the time limits will mean the loss of subsidized care.

Issue 11: Income Eligibility Levels for Subsidized Child Care

CCLC concurs with the staff analysis concerning the fact that the SM for the purpose of childcare eligibility has not been update sine 2000. This has led to decreased access of low income working families and many instances has led to children losing the quality care they were actually entitled to under the spirit of the law. The establishment if the income level which is 75% of the SMI should be done on an automatic basis by CDE.

Under the budget proposal, beginning in 2005-6 the Federal Poverty Level (FPL) would determine annual adjustments to income eligibility. Since the FPL has historically risen more slowly than the SMI (the current eligibility measure), this proposal would deny eligibility for more families as time goes on. We also question the wisdom of adopting a measure of poverty that, most experts agree, is out-of-date and inaccurate. Last year, the Legislature recognized the FPL's inadequacy and indicated support for a more accurate methodology based on families' needs, such as a "self-sufficiency standard" that considers regional living costs.

CCLC Recommendation: California should retain State Median Income as the eligibility standard. Further Trailer Bill language should require that the State Department of Education update the SMI each year rather than the current system which relies on the Department of Finance to update the SMI. It has not done this since 2000.

Issue 13: Child Care for 11 and 12 year olds

While the budget does not explicitly cut care for 11- and 12-year-olds, in our estimation the Trailer Bill language (TBL) significantly changes the agreements the Legislature adopted after much discussion last year. The language treats after-school programs as the preferred placement for 11- and 12-year-olds, and shifts the burden to parents to confirm that such a program is not appropriate. In addition, the Trailer Bill lists some, but not nearly all, of the possible reasons that an after-school program may be inappropriate.

Although the proposed TBL does not limit the reasons the program is “not available” to those listed, it seems problematic that it lists some but not others of the many reasons after school care could fail to meet the needs of the family, such as the parent has a younger child and wants to keep the siblings in the same care arrangement, or that developmentally/emotionally the child needs a smaller setting than an after school program, etc.

More significantly, if a child is moved to an after-school program that turns out to be inappropriate, the family loses its child care subsidy with no guarantee of reinstatement, only a promise of “priority” on the waiting list.

Perhaps the most problematic change in the proposed TBL relates to children with exceptional needs. The new TBL changes the wording of the section exempting children with exceptional needs to make it more restrictive. Currently, the after school preferred placement requirement does not apply to a child with an IEP and “who has a demonstrated need for child care.” That is, the child has an IEP and the family has a need for child care. The proposed language requires that the child have an IEP “and the individual education plan demonstrates that child care must meet these exceptional needs.” This means that the parents would have to affirmatively get language in their child’s IEP that confirms that child care (as opposed to an after school program) is needed to meet these exceptional needs. This seems extremely restrictive and burdensome for parents.

CCLC Recommendation: The Trailer Bill language passed last year should remain unchanged.

Issue 15: State Allocation of Quality Set- Aside Funding

We believe the Plan should be reviewed at hearings in different venues around the state, as well as an opportunity for comments to be made outside of hearings. While we understand that the current process requires review by the Department of Finance prior to any public information, we feel it is critical that the Department host forums to gather information from the child development field and parents to determine the needs and preferences of the field before a draft plan is presented to the Department of Finance. As you will remember, two years ago comment occurred only after the Department of Finance had approved the plan, and it was at that point not possible to make significant changes.

Given the Administration's proposed reforms, which last year were not accepted by the Legislature, we believe that there are important policy discussions that must occur regarding the allocation of quality funds as well as other issues contained in the state plan.

Issue 16: Special Needs Funding

Quality early care and education is a fundamental equity issue for all children. But for families with children with special needs, however, finding programs that meet their full range of needs, are nurturing, and provide appropriate settings and education can pose overwhelming challenges. The precise number of children with special needs is difficult to determine, but extrapolating from the work of various experts suggests that more than 100,000 children under five in California alone have a disability or chronic health condition.¹³ The Child Care Law Center believes that it is important for children with special needs to be given the support and services they need and to have opportunities to be fully integrated into quality care sites and programs. may be the key to actually *preventing* disability later in life.¹⁴

CCLC Recommendation SB1703 projects have been extremely successful in increasing the capacity of child care providers to serve children with special needs. It is essential that child care providers have access to technical assistance and training. .

¹ Agenda Subcommittee No. 1 HHS April 27, 2005

² U.S. Department of Health and Human Services; Administration on Children, Youth, and Families; available at <http://nccic.org/pubs/caseload.html>

³ *Child Care and Development Fund: Report of State Plans FY 2004-2005*; U.S. Department of Health and Human Services; Administration on Children, Youth, and Families; Child Care Bureau October 2004 page 228.

⁴ For example, in Sacramento county, one Alternative Payment program found nearly 75 percent of the hours paid for license-exempt providers was for odd-hour care, while only 30 percent of the hours paid to licensed caregivers was for odd-hour care.

⁵ Policy Analysis for California Education, *Preschool and Child Care Quality in California Neighborhoods* (August 2001), available at www-gse.berkeley.edu/research/PACE/pace_publications.html.

⁶ Calif. Welfare & Institutions Code §§ 11323.2(a)(1), 11325.2(a)(1), 11322.9(f). Eligibility for CalWORKs child care Stage 1 is governed by Calif. Educ. Code § 8351(a) and MPP §§ 47-101 *et seq.* Eligibility for CalWORKs child care Stage 2 is governed by Calif. Educ. Code § 8343(a) and 5 C.C.R. §§ 18400 *et seq.*

⁷ Calif. Educ. Code § 8351, MPP § 47-230.1 (Stage 1). Calif. Educ. Code §8353, 5 C.C.R. §18400(f) (definition of "former recipient"), 18406(a)(3)(B), 18408(b), (Stage 2).

⁸ Calif. Educ. Code § 8354, 5 C.C.R. § 18404(p), 18421.

⁹ Calif. Educ. Code § 8350(a).

¹⁰ Governor's Budget Summary 2005-06, pages 15-16.

¹¹ Calif. Budget Project, *supra* note 3.

¹² Third quarter 1999 earnings of former CalWORKs recipients averaged only \$1222 per month. Calif. Dep't of Social Services, Research and Development Division, Characteristics and Employment of Current and Former CalWORKs Recipients, (updated, December 1, 2000), available at www.dss.cahwnet.gov/research/res/PDF/Presentation%206-2000.pdf. See also Calif. Budget Project, Welfare Reform Update: What Do We Know About Former CalWORKs Recipients?, at 4 (July 2001), indicating that the median household income ranged from \$8.80 to \$9.26 per hour in different counties, whereas a living wage for a family of three is \$18 per hour.

¹³ In 2002 some 60,000 children, or 3.7 percent of California children ages 3-5, were in special education. See Brault, L., Knapp, P., and Winton, P., School Readiness for ALL Children: Ensuring Children with Disabilities or Other Special Needs are Included in California's School Readiness Efforts. *First 5 California Implementation Tools for School Readiness Series*. Los Angeles, CA: UCLA Center for Healthier Children, Families and Communities

2004. California Department of Education website: <http://data1.cde.ca.gov/dataquest/>. A snapshot of children served in December 2002 in Special Education (“student demographics”) in California by age (3-5 years) and disability, available at and printed on July 15, 2004. However, according to one report, approximately double that proportion of children (5-8 percent) have a disability or chronic condition. Dunkle, M. and Vismara, L., *A Different Kind of Test*. Education Week, 23(4) p.38-39 (2003), available at www.edweek.org/ew/ew_printstory.cfm?slug=04dunkle.h23. Thus, one could project that twice the 60,000 who received services in 2002 are in need of supports to function or participate in a classroom with typically developing children.

¹⁴ Herera, Sue, *Autism Research Focuses on Early Intervention*, CNBC, 2/23/05. See msnbc.msn.com/id/7013251.