



CHILD CARE LAW CENTER

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Assembly Budget Committee Subcommittee 1 on Health and Human Services

Legislative Women's Caucus Joint Hearing – April 13, 2005

THE PURPOSE OF CHILD CARE: BACKGROUND

Child care is part of a nexus of supports critical to fostering strong families and providing opportunities for every child. Early care and education has two fundamental purposes: it is a vital support for working families, and with the family, it contributes to children's well-being, development, and school readiness.

- To flourish and be ready for school, children need caring adults, adequate family income, good nutrition, health care, safe and nurturing environments, and culturally and developmentally appropriate education. California has model child care centers, family child care homes, resource and referral programs, and nationally recognized quality standards. We have the base upon which to build a high quality early care and education system, but the base is in danger of eroding.
- Finding early care and education that meets their needs and covering its costs is challenging for middle-income families, but it can be impossible for low-income families. Over 1.4 million Californians work at or near the minimum wage, making far less than required for a family's basic needs.¹ At the same time, the average cost at a full-time licensed center for a child age 2 to 5 is \$6,739, nearly half the \$14,040 earned annually by a full-time minimum wage worker.²
- Although the entire subsidy system has grown significantly since 1998, given the dramatically increased need, early care and education remains dangerously under-funded. Many families face overwhelming challenges in obtaining high quality early care and education, especially if English is not their first language, they have babies and toddlers or children with disabilities, they work odd hours, or they have low incomes but do not receive a subsidy.
- California faces a budget crisis, and the nation faces severe budget issues exacerbated by tax cuts and military expenditures. But adequate funding for a strong state early care and education system is critical to California's working families, its school readiness goals, and its economic future.

Supporting CalWORKs Families Transitioning to Work

The most dramatic recent change to the subsidy system occurred in 1998 with welfare reform and the CalWORKs three-stage system for delivering child care subsidies. Most families receiving CalWORKs cash assistance must participate in Welfare-to-Work activities. A parent with primary

responsibility for the care of an infant between 3 and 12 months may be exempt from participation.³ Counties have discretion to set the length of the exemption within these guidelines.⁴

Although Congress ended the federal entitlement to child care when it passed welfare reform legislation in 1996, in California, eligible families retain a right to child care subsidies while on cash aid and for two years after they stop receiving cash assistance. Families who comply with the welfare program rules, seek and find employment, and leave cash aid can continue to receive child care assistance so long as they remain otherwise eligible. Those who transition off cash aid continue to be eligible for child care assistance, paying gradually increasing fees, until their income reaches 75 percent of State Median Income (SMI).⁵

We should be proud that we have kept our promise to families to help with child care costs as they move toward self-sufficiency.⁶ Current state policy recognizes that loss of child care subsidies for low-income former CalWORKs recipients could force them back onto cash assistance or to leave their young children alone, in the care of siblings, or in child care of such low quality that it is actually harmful to children.⁷

Helping to Ensure Equity for all Children

A child's earliest experiences determine whether the child enters kindergarten ready to learn. Thus, equitable access to quality child care has ramifications far beyond the early years. However, less than two-thirds of the children in low-income working families outside CalWORKs receive the child care assistance for which they are eligible, leaving some 280,000 children unserved.⁸ And paying for child care on the private market is not an option for a large number of California families.⁹

However, the lack of investment in low-income children not connected with CalWORKs is not due to CalWORKs families receiving child care assistance at the expense of other families. While federal and state investment in child care subsidies for CalWORKs families has grown dramatically since the creation of the Welfare-to-Work program, non-CalWORKs programs have grown as well.¹⁰ California must invest more resources in child care for low-income, non-CalWORKs families, but this investment should not be at the expense of CalWORKs families.

We must remember that the most fundamental child care inequity is that between children from families with sufficient economic resources, nearly all of whom have access to high quality child care, and children in low- and middle-income families, many of whom lack any access to licensed child care, much less high quality care.

PRINCIPLES FOR ANALYZING BUDGET PROPOSALS RELATED TO CHILD CARE

First, early care and education should be improved through a comprehensive, inclusive planning process that examines the system from the viewpoints of children and families and determines the true cost of care. Reform should *not* be conducted through the budget process. Piecemeal approaches designed primarily to save money will lead to the further fragmentation and degradation of an already fragile system that is vital to California.

Second, we need a balanced approach that seeks additional ongoing state revenue sources, including reversal of recent tax cuts and/or increasing taxes.

Third, children's needs should be primary. Children's access to the highest quality early care and education and after school programs benefits us all, and we should focus special attention on the needs of children who face barriers to high-quality care.

Fourth, CalWORKs families cannot move from welfare to self-sufficiency without work supports, and child care is among the most important of these.

Fifth, our system of licensing and regulation cannot be an afterthought. It is the very foundation of our ability to protect children's health and safety.

Sixth, child care is a strategic high-growth, low-risk government investment. Not only does it support working families and school readiness goals; economists estimate that the return to society is more than \$17 for every dollar invested.¹¹ Moreover, the licensed child care industry in California generates some \$5 billion in gross receipts. It employs over 123,000 people, creating and sustaining three times more jobs than the advertising industry, more than twice as many as the lumber industry, and thousands more than the accounting and legal services industries.¹²

THE GOVERNOR'S JANUARY BUDGET PROPOSAL

Despite the importance of child care to California families, the Governor, through the budget process, proposes further cuts of \$134.1 million.¹³ He would shift 11- and 12-year-olds to after school programs (saving \$15.5 million), cut reimbursement to providers serving only subsidized children (saving \$5.2 million), and cut the reimbursement rate for license exempt providers (saving \$113.3 million). There is a further unexplained loss in Child Care Licensing of \$375,000 from the General Fund plus \$197,000 from Other Funds.¹⁴

Other significant policy changes that he would make through the budget process yield no savings in the budget year. These include time limits on CalWORKs families' access to child care, drastic reduction in reimbursement rates for licensed providers and centers in two years, and locking in the SMI at 2000 levels and establishing a new measure to further limit eligibility by changing the index.

A. Licensing and Regulation

Although the Budget Summary does not mention licensing, we are gravely concerned that the Governor's budget section on Health and Human Services contains an unexplained reduction of

close to \$575,000 to eliminate the statutory requirement to increase community care licensing resources. Once a model, California has fallen so that it has become among the least rigorous of the states in licensing caseloads.¹⁵ Additionally, it also has one of the lowest frequencies of inspections nationally.¹⁶ In combination, these faulty practices serve to endanger *all* children in out-of-home care.

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. Funds should also be appropriated to reinstate full staffing of the child care advocate program at its previous capacity, and increase availability of linguistically and culturally accessible information for parents and child care providers.

B. Reducing Reimbursement Rates for 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 90 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.¹⁷

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.

C. Limiting Reimbursement for Licensed Child Care Providers

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. Labeled a quality proposal, this scheme does nothing to deal with the Standard Reimbursement Rate (SRR), 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. The SRR should be examined to determine its adequacy to maintain high quality programs.

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.

D. Equitable Rates for Providers Serving Only Subsidized Children

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 particularly concerned about the effect of these regulations on infant care, as documented in the Assembly Budget Committee Hearing Agenda of April 14, 2004. Center-based care for infants is in short supply, and it is inconceivable that centers in the poorest communities could continue to serve infants if the reimbursement rates decreased significantly.¹⁸

We are also concerned about the regulations themselves, 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.

CCLC Recommendation: The Legislature should address these issues in the statutory process and develop a more equitable approach that avoids the privacy problems of the suspended regulations.

E. Oppose Time Limits and the Effective Elimination of CalWORKs Stage 3

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 2.¹⁹ An adult who transitions off cash assistance has a right to subsidized child care, if financially eligible, for an additional 24 months.²⁰ Thereafter, the family may transition to Stage 3 if a funded slot is available.²¹ 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."²²

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.²³ 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.²⁴ Most families who transition off CalWORKs cash assistance have very low incomes and few prospects of earning more.²⁵

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.

F. Budget Year Shift of 11- and 12-Year-Olds to After-School Care

While the budget does not explicitly cut care for 11- and 12-year-olds, in our estimation the Trailer Bill language 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. Most 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.

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

G. Waiting List Reform

We agree that a more systematic approach to state and county eligibility lists could give state officials and advocates a real sense of unmet child care need. Pending review of the details we might support centralized eligibility lists, but we are not certain that this funding is adequate to accomplish the objective.

CCLC Recommendation: It is unconscionable that any family with income below 50 percent of the SMI would not receive a child care subsidy. As we have stated elsewhere and in legislation we sponsored in 2003, we believe that incremental investment should be made to fully fund the subsidy system. We will review the proposal to change the waiting list to a “first come, first served” system when we receive the details of the Governor’s plan.

H. Rebench Child Care Eligibility

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.

I. Other Proposed Cuts That Would Affect Children and Vulnerable Californians

The Governor’s proposed budget would cut \$1 billion from programs that assist about half a million of California’s poorest families, reducing their ability to pay for basic necessities. CalWORKs grants to families with children would be cut by 6.5 percent, reducing the grant for a family of three by \$47 to \$676 a month and the statutory cost of living adjustment repealed. The Governor also undermines the work incentive for CalWORKs recipients by reducing the money working families can keep from work by an average of about \$100 a month, to save the state \$111 million. These cuts combine to place additional pressure on low-income families and could force some out of the CalWORKs program, thus terminating their child care subsidies entirely.

Conclusion

We face a profound question: how best to use our resources to ensure that we give children what they need to grow and flourish in safe, culturally and developmentally appropriate environments. A child's lifelong ability to learn and contribute is significantly affected by the child's experiences in the first years of life. Each of us should take steps to ensure children's access to the highest quality programs.

¹ See California Budget Project, *The State Of Working California 2004*, September 2004; Wider Opportunities for Women and Californians for Family Economic Self-Sufficiency, *Overlooked and Undercounted: A New Perspective on the Struggle to Make Ends Meet in California*, June 2003.

² California Child Care Resource and Referral Network, *2003 Child Care Portfolio*, March 2004.

³ They have the right to be exempted from this requirement if child care is not reasonably available during their hours of work or training or if their child care arrangements break down, among other reasons.

⁴ Welf. & Inst. Code § 11320.3(b)(6)(A)(iii); MPP § 42-7122.47(B).

⁵ The 2004 SMI for a family of four was \$65,766, with 75 percent of this being \$49,325. From the U.S. Department of Health and Human Services, Administration for Children & Families at <http://www.ncat.org/liheap/tables/FY2004/statemedian.htm#2>.

⁶ The program's power in helping to support working families who have left cash assistance is demonstrated by the number of children served by the CalWORKs child care program. In state FY2003-04, the monthly average for children served was 81,045 in CalWORKs Stage 2 and 45,674 in CalWORKs Stage 3.

⁷ Most families who transition off CalWORKs cash assistance have very low incomes and limited prospects for rapidly increasing their incomes. Statistics prepared by the Department of Social Services (DSS) indicate that third quarter 1999 earnings of former CalWORKs recipients averaged only \$1222 per month; 50 percent of SMI for a family of three is \$1950 per month, and more than three-quarters of families receiving child care subsidies have incomes under that level.

⁸ *Lasting Returns: Strengthening California's Child Care and Development System* (California Budget Project, May 2001) at 25 and Table 4.

⁹ The average cost of care for a single infant at a licensed child care center was more than \$700 per month in 2001, an amount that is *nearly three-fourths* (71%) of the income of a single parent working full time at a minimum wage job. A parent with both an infant *and* a preschooler would have to pay more than \$200 per month over her entire gross income to meet the average cost for center-based care. Even a family earning the state median income would have to pay 34% of its income for center-based child care.

¹⁰ A summary prepared by CDE in December 2004 indicated that center-based programs grew from \$504,672 in FY96-97 to \$1,017,045 in FY 04-05, and non-CalWORKs APP programs grew from \$162,927 in FY96-97 to \$207,812 in FY 04-05. Total CDD direct service programs grew from \$667,599 in FY96-97 to \$2,127,771 in FY 04-05.

¹¹ *High Scope/Perry Preschool Study through Age 40: Summary, Conclusions, and Frequently Asked Questions*, available at <http://www.highscope.org/research/perryproject/PerryAge40SumWeb.pdf>.

¹² National Economic Development and Law Center, *The Economic Impact of the Child Care Industry in California, Executive Summary* (Fall 2001), p.i.

¹³ Department of Finance Chart "Child Reform Savings" undated on file at CCLC

¹⁴ Governor's Budget Summary 2005-06, Health and Human Services; 5180 Department of Social Services; Page 187.

¹⁵ U.S. Department of Health and Human Services; Administration on Children, Youth, and Families; available at <http://nccic.org/pubs/caseload.html>

¹⁶ *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.

¹⁷ 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.

¹⁸ Agenda Assembly Budget Subcommittee 1- Health and Human Services April 14, 2004 page 9

¹⁹ 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.*

²⁰ 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).

²¹ Calif. Educ. Code § 8354, 5 C.C.R. § 18404(p), 18421.

²² Calif. Educ. Code § 8350(a).

²³ Governor’s Budget Summary 2005-06, pages 15-16.

²⁴ Calif. Budget Project, *supra* note 3.

²⁵ 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.