Date of Hearing: June 30, 2021

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Lisa Calderon, Chair
SB 246 (Leyva) – As Amended April 13, 2021

SENATE VOTE: 39-0

SUBJECT: Early childhood education: reimbursement rates

SUMMARY: Requires the California Department of Social Services (CDSS) to establish a single reimbursement rate for early learning and care programs, including variation for regional costs and quality adjustment factors. Specifically, **this bill**:

Reimbursement Rates:

1) Makes inoperative upon an appropriation in the annual Budget Act and repeals January 1 of the following year provisions of current law that require the implementation of 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.

2) Instead, operative on or after July 1, 2022, upon an appropriation in the annual Budget Act, requires CDSS to implement a reimbursement system plan that establishes reasonable standards and assigned reimbursement rates, which vary with the regional reimbursement ceiling, a quality adjustment factor to address the cost of staffing ratios, the length of the program year, the hours of service, and any additional adjustment factors.

3) Provides that parent fees shall be used to pay reasonable and necessary costs for providing additional services.

4) Requires the California Department of Education (CDE), when establishing standards and assigned reimbursement rates, to confer with applicant agencies.

5) Requires CDE, by January 1, 2024, to develop, or hire a contractor to develop, a modernized reimbursement formula based on the components outlined in the state's Master Plan for Early Learning and Care, including, but not limited to, adjustments for market, program quality, child needs and characteristics, and state of emergency declarations.

6) Requires CDE, by January 1, 2024, to convene a working group to assess the existing quality standards for equity and accessibility to all provider types and settings.

7) Requires CDE to develop recommendations to be implemented with the new reimbursement base rate. Further, requires changes to be aligned with appropriate competencies for early childhood workers, including, but not limited to, experience, education, and environmental settings, to be implemented in alignment with the new reimbursement formula.

8) Requires by November 10, 2022, and annually thereafter, the reimbursement system plan, as specified, to be submitted to the Joint Legislative Budget Committee.

9) Authorizes CDE to establish any regulations that the department deems advisable concerning conditions of service and hours of enrollment for children in the programs.

10) Requires CDSS, commencing January 1, 2022, to adopt an interim standard reimbursement rate based on the 2018 regional market rate (RMR) survey of $11,995 and, commencing with the 2024–25 fiscal year, implement the new base rate, which shall be annually increased by the cost-of-living adjustment (COLA) granted by the Legislature. Commencing July 1, 2018, the full-day state preschool reimbursement rate shall be $12,070 and, commencing with the 2019–20 fiscal year, shall be annually increased by the COLA granted by the Legislature.

11) Provides that the reimbursement system plan shall require agencies having an assigned reimbursement rate above the current year standard reimbursement rate to reduce costs on an incremental basis to achieve the standard reimbursement rate.

12) Requires the reimbursement system plan to provide for adjusting reimbursement on a case-by-case basis, in order to maintain service levels for agencies. Assigned reimbursement rates shall be increased only on the basis of one or more of the following:

    a) Loss of program resources from other sources;

    b) Need of an agency to pay the same childcare rates as those prevailing in the local community;

    c) Increased costs directly attributable to new or different regulations; or,

    d) Documented increased costs necessary to maintain the prior year's level of service and ensure the continuation of threatened programs.

13) Provides that childcare agencies funded at the lowest rates shall be given first priority for increases.

14) Provides that the reimbursement system plan shall provide for expansion of child development programs at no more than the standard reimbursement rate for that fiscal year.

15) Authorizes CDE to reduce the percentage of reduction for a public agency that serves more than 400 children, has in effect a collective bargaining agreement, or has other extenuating circumstances.

16) Requires CDE, by July 1, 2022, and annually thereafter, to establish a reimbursement rate target for each contracting agency that meets quality standards and any regulations adopted thereunder, based on all of the following elements:

    a) The RMR ceilings for the contracting agency's county, as applicable;

    b) The quality adjustment factor for the age range of children proposed to be served by the contracting agency, as a multiplier;

    c) The program year and hours of service reimbursement factor, if applicable;

    d) Additional adjustment factors for special circumstances or services, if applicable; and,

e) A short-term crisis adjustment factor of 1.5 under any state of emergency declarations made by local or state officials.

17) Provides that a contracting agency's rate target shall not be less than that agency's 2022 rate, by age range.

18) Requires CDE, to establish quality adjustment factors for all of the following age ranges:

a) For infants who are 0 to 18 months of age, the adjustment factor shall be 1.23.

b) For toddlers who are 18 to 36 months of age, the adjustment factor shall be 1.23.

c) For preschoolers who are 36 months to six years of age, the adjustment factor shall be 1.23.

d) For schoolage children who are six years of age and older, the adjustment factor shall be 1.03.

19) Provides that all providers meeting quality standards shall be paid the quality adjustment factor, including family child care home education networks.

20) Provides that the reimbursement system plan shall include a formula for annually adjusting reimbursement rates for each agency, based on all of the following:

a) The annual Budget Act funding allocated for standard reimbursement rate increases;

b) An equitable distribution of standard reimbursement rate increases to agencies, by county, as an equal percentage of the county outstanding rate target, for purposes of meeting the targets identified by these provisions; and,

c) Funding allocated for cost-of-living adjustments, if applicable.

Adjustment Factors:

21) Adds the crisis adjustment factor of 1.5 for children who are served in a county experiencing a county state of emergency, or any county during a statewide state of emergency, and makes inoperative these and current provisions in state law related to adjustment factors on July 1, 2022. Repeals these provisions as of January 1, 2023.

22) Instead, operative on July 1, 2022, in order to reflect the additional expense of serving children who meet any of the criteria outlined below, the provider agency's reported child days of enrollment for these children shall be multiplied by the adjustment factors listed below:

a) For children with exceptional needs who are 0 to 21 years of age, the adjustment factor shall be 1.54;

b) For severely disabled children who are 0 to 21 years of age, the adjustment factor shall be 1.93;

c) For children at risk of neglect, abuse, or exploitation who are 0 to 14 years of age, the adjustment factor shall be 1.1;

d) For limited-English-speaking and non-English-speaking children who are two years of age through kindergarten age, the adjustment factor shall be 1.1;

e) For children who are served in a California state preschool program, infants and toddlers who are 0 to 36 months of age and are served in general childcare and development programs, or children who are 0 to 5 years of age and are served in a family childcare home education network setting funded by a general childcare and development program, where early childhood mental health consultation services are provided, the adjustment factor shall be 1.05; and,

f) For children who are served in a county experiencing a county state of emergency, or any county during a statewide state of emergency, the crisis adjustment factor shall be 1.5 based on the enrollment of children in the program.

23) Provides that use of the adjustment factors shall not increase the provider agency's total annual allocation.

24) Provides that days of enrollment for children who meet more than one of the criteria shall not be reported under more than one of the categories.

25) Provides that for children for whom an adjustment factor is applied, and who are additionally eligible for the state of emergency adjustment factor, reported child days of enrollment shall be multiplied by the sum of the applicable adjustment factor and 0.05.

26) Provides that the difference between the reimbursement resulting from the use of the adjustment factors and the reimbursement that would otherwise be received by a provider in the absence of the adjustment factors shall be used for special and appropriate services for each child for whom an adjustment factor is claimed.

27) Provides that for childcare and development program providers serving children in a county experiencing a county state of emergency, or any county during a statewide state of emergency, the crisis adjustment factor shall be 150% of the standard reimbursement rate based on the enrollment of children in the program.

Regional Market Rate:

28) Changes the survey year from 2016 to 2018 to be used for determining the RMR ceiling.

29) Provides that upon an appropriation by the Legislature for these express purposes, and during the 2021 calendar year, the 2021 RMR ceilings shall be established at the greater of the 85th percentile of the 2018 RMR survey for that region or the RMR ceiling that existed in that region on December 31, 2017.

30) Provides that upon an appropriation by the Legislature for these purposes, commencing with the 2021–22 fiscal year, and annually thereafter, the RMR ceilings shall be established at the greater of the 85th percentile of the 2018 RMR survey for that region or the RMR ceiling that existed in that region on December 31, 2017.

31) Provides that upon an appropriation by the Legislature for these purposes, commencing January 1, 2022, and annually thereafter, license-exempt childcare providers shall not exceed 70% of the commensurate rate, including hourly, daily, weekly, and monthly, for both full-time and part-time care established pursuant to the RMR ceiling.

32) Requires CDSS to update the RMR survey methodology to include both of the following:

    a) Age ranges and hours of service ranges pursuant to the reimbursement system plan; and,

    b) Direction for the survey to mitigate the impact of contractors located in deep-poverty census tracts on the market profile or county rate.

EXISTING LAW:

1) Establishes the "Child Care and Development Services Act" to provide child care and development services as part of a coordinated, comprehensive, and cost-effective system serving children from birth to 13 years old and their parents including a full range of supervision, health, and support services through full- and part-time programs. (Education Code Section [EDC] 8200 *et seq.*)

2) Requires families to meet certain criteria in order to be eligible for federal and state subsidized child development services, including that a family must be either a current aid recipient, income eligible, homeless, or one whose children are recipients of protective services or have been identified as being abused, or neglected, as specified. (EDC 8263)

3) Requires the Superintendent of Public Instruction (Superintendent) to develop standards for the implementation of quality programs, and outlines indicators of quality to include, among other things a physical environment that is age appropriate and meets applicable licensing standards and program activities and services that meet the needs of children with exceptional needs and their families. (EDC 8203))

4) Requires the Superintendent to implement a plan that establishes reasonable standards and assigns reimbursement rates for childcare and development services, to vary by length of program year and hours of service. (EDC 8265)

5) Establishes, beginning July 1, 2018, the Standard Reimbursement Rate (SRR) as $11,995, in addition to a cost of living adjustment beginning with the 2019-20 fiscal year. (EDC 8265)

6) Establishes, beginning July 1, 2018, the full-day state preschool reimbursement rate as $12,070, in additional to a cost of living adjustment beginning with the 2019-20 fiscal year. (EDC 8265)

7) Provides for multipliers to provider agency's reported child days of enrollment for the additional expense of serving children who meet certain criteria, beginning January 1, 2019, as follows:

    a) For infants who are 0 to 18 months and are served in a center or family home, the adjustment factor is 2.44.

    b) For toddlers who are 18 to 36 months and are served in a center or family home, the adjustment factor is 1.8.

c) For children with exceptional needs who are 0 to 21 years, the adjustment factor is 1.54.

d) For severely disabled children who are 0 to 21 years, the adjustment factor is 1.93.

e) For children at risk of neglect, abuse, or exploitation who are 0 to 14 years, the adjustment factor is 1.1. This applies only to full-day schools and part-day preschools below the SRR.

f) For children age two years to kindergarten age who are English learners, the adjustment factor is 1.1. This applies only to full-day schools and part-day preschools below the SRR.

g) The adjustment factor is 1.05 for the following:

   i) Children who are served by a state preschool program;

   ii) Infants and toddlers who are 0 to 36 months and are served in general childcare programs; and,

   iii) Children who are 0 to 5 years and are served in a family home that provides early childhood mental health consultation services. (EDC 8265.5)

8) Authorizes recipients of Stage 3 childcare services to choose the childcare services of licensed childcare providers or childcare providers who are not required to be licensed. (EDC 8357)

9) Provides that the cost of that childcare is to be reimbursed by counties or agencies that contract with CDE if the cost is within the RMR. (EDC 8357)

10) Defines "regional market rate" as care costing no more than 1.5 market standard deviations above the mean cost of care for that region. States legislative intent to reimburse childcare providers at the 85th percentile of the most recent RMR survey. (EDC 8357)

11) Requires the RMR ceilings to be established at the greater of either of the following:

   a) The 75th percentile of the 2016 RMR survey for that region; or,

   b) The RMR ceiling that existed in that region on December 31, 2017. (EDC 8357)

12) Prohibits reimbursement to license-exempt childcare providers from exceeding 70 percent of the family childcare home. (EDC 8357)

13) Prohibits reimbursement to childcare providers from exceeding the fee charged to private clients for the same service. (EDC 8357)

FISCAL EFFECT: According to the Senate Appropriations Committee, on May 3, 2021, while a precise estimate of this bill is unknown as it would largely depend on several variables, most notably the percentile and year of the RMR survey to be used, the General Fund costs to establish the bill's new reimbursement rate structure for early learning and childcare programs could be in the high hundreds of millions to over a billion dollars at full implementation.

COMMENTS:

Assembly Blue Ribbon Commission on Early Childhood Education: The Assembly Blue Ribbon Commission on Early Childhood Education (BRC) was established with the intent to "plan an early learning system that works for/meets the needs of children, families, and providers." On March 11, 2019, draft recommendations were released. One set of recommendations was related to reimbursement rates, with the report stating that:

> "The BRC concurs with the multi-step Recommendations of the Reimbursement Rates Working Group convened by First 5 to establish a framework in which all subsidized programs shall be reimbursed on the same regionalized pay scale which tiers up for quality. Recommendations include implementation of comprehensive rate reform through a multistep process:
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> 1) First, bridge the standard reimbursement rate (SRR) and the regional market rate (RMR) together. Then reform the RMR survey methodology to create a tiered reimbursement system that can incentivize and reimburse for quality and quality improvement efforts across different program types and incentivize full day programs. Throughout this multistep process, all programs should be held harmless;
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> 2) Address equity issues by refining the RMR survey and future rate-setting methodologies. The use of socio-demographic characteristics to set rates through market profiles exacerbates inequality and institutionalizes low reimbursement rates for providers that serve children and families in low-income counties; and,
>
> 3) Move towards a heavier emphasis on the true cost of providing quality child care, preschool, and early learning experiences."

Master Plan for Early Learning and Care: In December 2020, the California Health and Human Services Agency released the *Master Plan for Early Learning and Care* (Master Plan) to create a roadmap and recommendations for expanding and improving California's early learning and care system over the next five to ten years. Within the Master Plan was a recommendation to create a single reimbursement rate that provides adjustments for regional cost of living, higher quality characteristics, and certain child characteristics (for example, infants/toddlers, duel language learners, children with special needs).

Dual Rate System for State-Subsidized Childcare and Early Learning: California's early learning and care services are delivered to eligible families through two categories of providers—Title 22 and Title 5 providers. Consequently, California has two different sets of rate schedules for providers of subsidized child care.

Title 22: Programs that utilize vouchers, which allow families to access child care through their choice of a licensed day care center, a licensed family child care home, or license-exempt child care (typically, care provided by a family, friend, or neighbor who has passed a background check) are Title 22 providers. Licensed programs must adhere to the requirements of Title 22 of the California Code of Regulations and are reimbursed at levels that are based on RMR. License-exempt providers must meet minimum health and safety standards.

Title 22 providers are reimbursed at the RMR, which is a biannual survey of the cost of child care in various geographical regions across the state. The RMR rates vary significantly from one county to another, reflecting differences in the cost of care. RMR rate ceilings are currently established at the 75th percentile of the 2016 RMR survey for a county. RMR ceilings for license-exempt providers are set at the 70th percentile of a county's established RMR ceiling for family child care homes. The county rate ceilings are differentiated by the age of the child (infant, preschool, school age), full-day or part-day care, and frequency of care (days per week).

Existing law requires the RMR survey to be updated every two years, and states intent that providers be reimbursed at the 85th percentile of the most recent survey. The RMR is currently set to the 75th percentile of the 2016 RMR, thereby providing a lower rate than if based on the most recent survey (which was completed in 2018). Due to unusual circumstances caused by the COVID-19 pandemic, the 2020 survey was not completed.

Title 5: Providers of contracted care—child care and development programs and the California State Preschool Program Providers (CSPPs) that contract directly with CDE, as opposed to voucher-based care are considered Title 5 providers. These providers include general childcare, migrant childcare, and state preschool. Title 5 providers contract directly with, and receive payment from, CDE for licensed early learning and care, through centers, Family Childcare Home Education Networks, and state preschool. These providers must adhere to the requirements of Title 22 and Title 5 of the California Code of Regulations. Title 5 providers must meet higher education, training, and health and safety standards. Yet, in some counties, Title 22 providers are paid at a higher reimbursement rate than the Title 5 providers.

Title 5 providers are reimbursed according to a uniform statewide rate system based on the SRR. The SRR is currently established at $11,995, and the full-day state preschool reimbursement rate is established at $12,070 (both in addition to cost-of-living-adjustments). Title 5 programs receive the same reimbursement rate, plus adjustment factors depending on the age and needs of the child, regardless of geographic region.

Need for this bill: The state's subsidized child care and development system provides a range of programs to meet the needs of various families. This is a strength of the system, offering parents choice among care options in order to best meet their particular needs. However, providers across this range of programs are paid according to two different methodologies, which results in disparate rates being paid to them. All child care programs must meet licensing requirements established in Title 22 of the California Code of Regulations and overseen by CDSS, while direct service contract providers must also meet requirements established in Title 5 of the California Code of Regulations and overseen by CDE. These contracted centers are paid according to the statewide SRR, while voucher-based care is reimbursed using the more regionally-responsive RMR. This bill seeks to create a more equitable reimbursement structure across child care and development programs that is responsive to regional costs of care and reflective of other factors.

This bill would increase rates for both the RMR and SRR, and require the creation and phase-in of a new reimbursement rate structure. Consistent with recommendations included in the Assembly Blue Ribbon Commission Report and the Master Plan for Early Learning, this bill would create a base rate that will be specific to provider and program type and will take into account provider and program standards. Additionally, this bill would require the RMR ceiling to be based on an updated survey (rather than the 2016 survey), or the ceiling from 2018, whichever is greater.

According to the author, "[This bill] would establish a single regionalized state reimbursement rate system—The Child Care Stabilization Formula—for child care, preschool, and early learning services.

"California has a mixed delivery system that provides early care and education (ECE) services for the state's youngest learners, including child care, preschool, and early learning.

"Specifically, it has two different and unaligned systems for reimbursing early learning services. Child care providers meeting Title 22 standards are reimbursed using a Regional Market Rate (RMR) that accounts for geographic economic cost factors, while directly state-contracted early learning centers that meet Title 5 standards—in addition to Title 22 standards—are reimbursed at a flat Standard Reimbursement Rate (SRR).

"This bifurcated rate system and inadequately low reimbursement rates complicate efforts to fund and deliver high-quality ECE programs that meet the developmental needs of all children while addressing the health, safety, and well-being of the children served. This current structure and overall insufficient funding limit California's ability to increase teacher compensation, adequately resource ECE programs, and incentivize quality improvement efforts, ultimately limiting access and forcing many child care providers out of business.

"To address the problems of a bifurcated rate system, resource expenditures should be streamlined and expended in a way that:

1) Compensate teachers and programs for the cost of providing care;

2) Are responsive to the economic diversity of California;

3) Recognize the costs of meeting varying quality standards, regulations, and contracting burdens; and,

4) Incentivize high standards and participation in research-based quality improvement efforts as a means to improve child outcomes.

"[This bill] (The Child Care Stabilization Formula) would establish a single regionalized state reimbursement rate system for child care, preschool, and early learning services. Through these reforms, California can achieve a more equitable system to support children and families, as well as maximize public benefit."

Double referral: This bill will be referred to the Assembly Education Committee should it pass out of this committee.

PRIOR AND RELATED LEGISLATION:

SB 50 (Limon) of 2021, allows a state preschool contracting agency to service any child that meets eligibility requirements up to six years of age. SB 50 is set to be heard by the Assembly Human Services Committee on June 30, 2021.

SB 98 (Committee on Budget and Fiscal Review) Chapter 24, Statues of 2020, known as the Early Childhood Development Act, transferred all childcare programs, with the exception of the CSPP, from the CDE to the CDSS, commencing July 1, 2021.

SB 174 (Leyva) of 2019, would have required, subject to an appropriation, that specified providers of subsidized childcare be reimbursed based upon an updated RMR; established the "Quality Counts California Pilot Reimbursement Program," to provide higher reimbursement rates to alternative payment program providers for meeting certain quality standards; and made the enactment of the bill contingent upon the enactment of AB 125 (McCarty) of 2019. SB 174 was referred to the Assembly Appropriations Committee but was not set for hearing.

AB 125 (McCarty) of 2019, would have revised the state's system and rates for reimbursing subsidized childcare and development programs to create a more uniform reimbursement system reflecting regional costs of care; and was contingent upon the enactment of SB 174 (Leyva) of 2019. AB 125 was held on the Senate Appropriations Committee suspense file.

AB 2125 (Ridley-Thomas) 2014, would have required the Superintendent to review the plan that establishes standards and assigns reimbursement rates for childcare and development programs, and to submit recommendations for a single reimbursement system that reflects the actual current cost of childcare based on the most recent regional market rate survey. AB 2125 was held on the Senate Appropriations Committee suspense file.

REGISTERED SUPPORT / OPPOSITION:

Support

Child Care Alliance of Los Angeles (Co-Sponsor)
Child Care Resource Center (Co-Sponsor)
EveryChild California (Co-Sponsor)
First 5 California (Co-Sponsor)
American Association of University Women - California
California Alternative Payment Program Association
California Association for The Education of Young Children (CAAEYC)
California Child Care Coordinators Association
California Child Care Resource and Referral Network
Child Care Providers United (CCPU)
Children Now
Community Child Care Council of Sonoma County
Council for A Strong America
County of Los Angeles Board of Supervisors
County of San Mateo
County of San Mateo Board of Supervisors
County Welfare Directors Association of California (CWDA)
Early Care and Education Consortium
Early Edge California
Fight Crime: Invest in Kids
First 5 Association of California
First 5 San Bernardino
Good2Know Partners
League of Women Voters of California

Los Angeles Unified School District
Low Income Investment Fund
Office of The Riverside County Superintendent of Schools
Parent Voices CA
ReadyNation
Riverside County Public K-12 School District Superintendents
Silicon Valley Community Foundation
The Education Trust - West

Opposition

None on file

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