AGENDA
SUBCOMMITTEE NO. 1
ON HEALTH AND HUMAN SERVICES

ASSEMBLYMEMBER PATTY BERG, CHAIR

WEDNESDAY, APRIL 25, 2007
STATE CAPITOL, ROOM 444
1:30 P.M.

VOTE-ONLY

ITEMS TO BE HEARD

Vote-Only Items

5180 DEPARTMENT OF SOCIAL SERVICES

ISSUE 1: CONTINUATION OF *GRESHER V. ANDERSON* COURT ORDER

BACKGROUND

The budget requests $478,000 ($350,000 General Fund) and 5.5 permanent positions for DSS to implement the Gresher v. Anderson court order.

On February 24, 2005, the California Court of Appeal in the Gresher v. Anderson case ordered DSS to change its criminal background check process to notify persons denied an exemption to work in a community care facility of the basis for the denial in terms sufficiently specific to permit the person to make an informed decision about whether to pursue an administrative appeal of the denial.

Under current law, people with criminal convictions are excluded from employment at a community care facility unless DSS grants an exemption. The DSS may grant an exemption if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. Although DSS notified the individual and potential employer of the exclusion, they did not provide information on the specific conviction(s) that led to the exclusion. Excluded individuals have 15 days to file a written appeal on the denial of their application for an exemption or the denial becomes final.

The Administration originally requested and the Legislature approved $596,000 and 6.0 limited-term positions in 2005-06 for implementation of the Gresher decision. The current request of $498,000 ($350,000 General Fund) and 5.5 permanent positions continues those positions and reflects an updated workload and resource analysis based on actual implementation experience.

ISSUE 2: CONTINUING EDUCATION ONLINE

BACKGROUND

The budget proposes to provide a 0.5 position to the Department of Social Services to implement AB 2675 (Strickland), Chapter 421, Statutes of 2006. The position will be funded through the Certification Fund without additional expenditure authority.

Under current law, administrators of Adult Residential Facilities (ARFs) and Group Homes (GHs) must meet certification requirements, which consist of an initial 35 and 40 hours of training, respectively, and a passing score on a written test developed by the Department of Social Services (DSS). Administrators of both ARFs and GHs must complete 40 hours of continuing education every two years. The DSS approves organizations and individuals who provide continuing education to facility administrators.

AB 2675 allows up to 20 of the 40 hours of continuing education to be completed through online study courses. The online courses are subject to DSS approval. The 0.5 position requested by DSS would draft regulations to implement AB 2675, and review, monitor, and approve or deny online curricula.

ISSUE 3: CHILD CARE FACILITIES – PARENTAL NOTIFICATION

BACKGROUND

The budget proposes $46,000 General Fund and 0.5 positions for the Department of Social Services (DSS) to implement AB 633 (Benoit), Chapter 545, Statutes of 2006.

AB 633 requires each licensed child day care facility to make accessible to the public licensing reports or other documents pertaining to a substantiated complaint investigation, conferences in which issues of noncompliance are discussed, or accusations indicating DSS' intent to revoke the facility's license. Each facility is required to tell parents in writing about how they can obtain that information. AB 633 also requires each licensed child day care facility to provide to parents copies of any Type A citation that represents an immediate risk to the health, safety, or personal rights of the children. Finally, AB 633 requires facilities to secure verification within 90 days of employment that the facility director has completed an orientation given by DSS.

The DSS is requesting resources to handle increased workload associated with providing additional orientation sessions. The Community Care Licensing (CCL) Division within DSS currently provides orientations for child care providers at their regional offices one or more times each month depending on the need in the community. The orientation has three components: one covers the licensure application process; one is a face-to-face interview with the licensee; and the final covers aspects of the day-to-day operations of the child care facility.

ISSUE 4: HEALTH AND CARE FACILITIES – BACKGROUND CHECKS

BACKGROUND

The Governor's budget proposes an increase of $225,000 in reimbursement authority and 1.5 positions (1.0 limited-term) for the Department of Social Services (DSS) to process background checks on Long-Term Care Ombudsmen staff and volunteers on behalf of the California Department of Aging (CDA) as mandated by SB 1759 (Ashburn, Chapter 902, Statutes of 2006). The CDA has a corresponding funding proposal, which was approved by Subcommittee #3 on March 8, 2007.

Ombudsmen staff and volunteers help to resolve complaints made by, or on behalf of, residents and ensure that skilled nursing facilities and residential care facilities for the elderly provide quality care for residents. The duties of an Ombudsman place him or her in direct personal contact with residents.

Prior to enactment of SB 1759, criminal background clearances for ombudsmen volunteers and staff were not required. This budget request would enable DSS to use its existing criminal record clearance systems, rather than create the same function within the CDA.

Items To Be Heard

5180 DEPARTMENT OF SOCIAL SERVICES
6110 CALIFORNIA DEPARTMENT OF EDUCATION

ISSUE 1: FREEZE OF INCOME ELIGIBILITY FOR CHILD CARE

BRIEF CHILD CARE OVERVIEW

Under current law, the state makes subsidized child care services available to: (1) families on public assistance and participating in work or job readiness programs; (2) families transitioning off public assistance programs; and (3) other families with financial need. Child care services provided within the California Work Opportunity and Responsibility to Kids (CalWORKs) program are administered by both the California Department of Social Services and the California Department of Education, depending upon the "stage" of public assistance or transition the family is in. Stage 1 child care services are administered by the Department of Social Services for families currently receiving public assistance, while Stages 2 and 3 are administered by the Department of Education.

Families receiving Stage 2 child care services are either receiving a cash public assistance payment (and are deemed "stabilized") or are in a two-year transitional period after leaving cash assistance; child care for this population is an entitlement under current law. The State allows counties flexibility in determining whether a CalWORKs family has been "stabilized" for purposes of assigning the family to either Stage 1 or Stage 2 child care. Depending on the county, some families may be transitioned to Stage 2 within the first six months of their time on aid, while in other counties a family may stay in Stage 1 until they leave aid entirely.

Families receiving Stage 3 child care services have exhausted their two-year Stage 2 entitlement. The availability of Stage 3 care is discretionary and contingent upon the amount of funding appropriated for the program in the annual Budget Act. Subsidized child care is also available on a limited basis for families with financial need (the "working poor"). Under current practice, services to these two populations are supplied by the same group of child care providers.

Child Care is provided through either licensed child care centers or the Alternative Payment Program.

- Child Care Centers receive funding from the state, which pays for a fixed number of child care "slots." Centers provide an educational program component that is developmentally, culturally, and linguistically appropriate for the children served. Centers also provide nutrition education, parent education, staff development, and referrals for health and social services programs. In many areas of the State, there are no available "slots" in licensed Child Care Centers or Family Day Care Centers and families are limited to the use of license-exempt care.

- Alternative Payment Program provides child care through means-tested vouchers, which provide funding for a specific child to obtain care in a licensed child care center, licensed family day care, or license-exempt care. With a voucher, the family has the choice of which type of care to utilize.

RECENT CHANGES

In recent years, the Legislature has approved a variety of Administration-driven proposals designed to "ration" the limited amount of state subsidized child care services, including: (1) eliminating subsidized child care services for 13-year old children; (2) eliminating subsidized child care services for families whose income exceeded 75 percent of the State Median Income (maximum income level under law) and who were originally "grandfathered" into law; (3) reducing the maximum rate paid to Alternative Payment providers for administration and support services -- from 20 to 19 percent; (4) reducing the reimbursement rate for providers from the 93rd percentile of the Regional Market Rate to the 85th percentile; and (5) limiting the availability of child care services to 11- and 12-year olds by tacitly shifting this age group to After School Programs. In addition, the Legislature approved, and the Administration enacted, Centralized Eligibility Lists in order to consolidate the separate waiting lists formerly housed by individual providers into a central location.

As part of the 2006-07 budget, the Legislature adopted a series of actions aimed at increasing support for child care programs. Specifically, the Legislature: (1) redirected funding for enrollment growth for Title V Centers and instead used those dollars to increase the Standard Reimbursement Rate for center-based programs; (the intent was to address long-standing issues surrounding the inability of centers to continue operating at the reimbursement rate that was previously being provided); (2) "Unfroze" the child care income eligibility ceilings and adjusted the ceiling to reflect 75 percent of the current (2006-07) State Median Income and appropriated an additional $67 million to reflect increased caseload that may result due to the increased income eligibility; (3) Adjusted the family fee schedule to add new "steps" (accounting for the higher income limits) and retained the level at which fees begin to be assessed at approximately 40 percent of SMI; and (4) Implemented compromise, county-based Regional Market Rates. The 2006-07 budget re-indexed State Median Income (SMI) guidelines for child care and preschool eligibility for the first time in six years. Families earning less than 75 percent of State Median Income are eligible for child care and preschool programs. The old guidelines artificially held the income levels at the 1999 level, which was equivalent to about 56 percent of the current SMI.

BUDGET PROPOSAL TO FREEZE SMI

The budget proposes to freeze SMI indexing, and thus the income eligibility levels for families participating in the state's child care programs, at the 2006 level. In January, the Department of Finance stated there were no projected savings resulting from this proposal. Language to this effect was also proposed as part of last year's budget proposal, at which point the Administration called for a working group to develop a methodology to link any future changes in eligibility to the development of a new family fee schedule. The language further called for the working group to: consider the use of alternative indexes for future income eligibility adjustments; examine the standard reimbursement rate; and review child care contracts to maximize expenditures.

As part of the current year budget process, legislative staff, working with representatives from the Administration, negotiated an increase in the income eligibility levels for the current year, and developed a new family fee schedule linking these new income levels to the family fee schedule. Further, staff worked to coordinate these actions with revised standard reimbursement rates. All of the above noted changes were approved by the Legislature and the Governor and included in the current year Budget Act. However, the Administration did not view these changes as being ongoing, and failed to include additional funding in its January proposal to continue adjusting income eligibility thresholds to keep pace with the changing State Median Income.

The California Budget Project states that families would lose eligibility for child care at a lower income than they would if the income eligibility limit were increased. Eligibility is limited to families with incomes at or below 75 percent of the state median income, adjusted for family size. Due to the increase in the median income between 2004 and 2005, the income eligibility limit would increase by an estimated 3.9 percent in 2007-08, absent the freeze proposed by the Governor. For example, a family of three could earn up to $3,769 per month ($45,228 per year) and remain eligible for child care in 2007-08 – $141 per month more than the current limit of $3,628 per month ($43,536 per year). This is equivalent to an annual difference of $1,692.

Families would also begin to pay fees at a lower income than they would if the income eligibility limit were increased. Families begin to pay graduated fees for child care when their incomes reach approximately 40 percent of the median income for their family size. Fees range from $2.00 per day to a maximum of $19.20 per day for full-time care. Currently, a family of three begins to pay fees when its income reaches $1,950 per month ($23,400 per year). A family of three would begin to pay fees when its income reaches $2,025 per month ($24,300 per year) if the income eligibility limit is updated in 2007-08.

REGIONAL MARKET RATE

A related issue in the rate discussion is the setting of a Regional Market Rate (RMR). Maximum reimbursements (ceilings) for subsidized child care provided through programs are subject to the RMR Survey of California Child Care Providers. A survey was conducted in 2005 and in 2006, the CDE committed to implement the regional market rate schedules based upon the county aggregates. The Department has been asked to discuss any proposed changes to the RMR and its formulation at the hearing.

PANELISTS

- California Department of Education
- Department of Finance
- Legislative Analyst's Office
- Parent Voices
- Resource and Referral Network
- Child Care Law Center

STAFF COMMENT

The SMI freeze proposal would undermine the progress made in last year's budget to keep child care accessible to families transitioning from welfare into work. This freeze could undermine work participation in CalWORKs and could lead to working families transitioning back to welfare due to a loss in needed child care.

ISSUE 2: CENTRALIZED ELIGIBILITY LIST UPDATE

BACKGROUND

Senate Bill 68 (Chapter 78), enacted July 19, 2005, added Section 8227 to the Education Code, and established the requirement for each county to develop and administer a CEL for families waiting to obtain CDE administered subsidized child care and development services. SB 68 requires that the Alternative Payment Program (APP) in each county be the agency that administers the CEL. In counties where there is more than one APP, the legislation requires that the APP that is also the local Resource and Referral Program (R&R) be the CEL administrator. It further requires that in counties with multiple APPs and R&Rs, the CDE was to establish a process to select the CEL administrator. Finally, it provided for agencies operating a CEL prior to July 2005 in any county to continue to be the CEL administrator for those counties. The 2005-06 budget appropriated $7.9 million for administration of CELs in all 58 counties.

Current law specifies that each CEL administrator is to design, maintain, and administer a system to consolidate local child care waiting lists in order to establish a countywide centralized eligibility list. Each CEL shall collect at a minimum the following data:

1. Family characteristics, including ZIP Code of residence, ZIP Code of employment, monthly income, and size.

2. Child characteristics, including birth date and whether the child has special needs.

3. Service characteristics, including reason for need, whether full-time or part-time service is requested, and whether after-hours or weekend care is requested.

The statute also requires that each county CEL administrator report the collected CEL data to the CDE annually and in a manner determined by the CDE. Prior to enactment of SB 68, each child care and development contractor established and maintained its own waiting list of families and children eligible for services. The legislation required contractors to participate and use the county CEL in order to be eligible for continued funding from the CDE. The legislation did provide for an exemption for three types of child care and development service contractors from the CEL participation requirement. Exempted contractors are campus child care and development programs, migrant child care and development programs operating on a seasonal basis, and programs serving severely handicapped children. These child care and development programs may utilize any waiting lists developed at their local sites to fill vacancies for their specific population.

The department was asked to provide an update on the CEL, the status of the CEL for Los Angeles County, and any prospective implementation issues. To facilitate CEL implementation and promote consistency, the department's Child Development Division (CDD):

- Is conducting quarterly meetings with CEL Administrators in Northern, Southern and Central regions

- Formed a workgroup of CEL administrators and CDD contractors to address CEL issues and assist with CEL regulations development

- Formed a workgroup of CEL administrators and Head Start grantees to address CEL and Head Start-CDD braided programs issues

Preliminary data indicates the following:

Statewide	**3rd quarter of 2006**	**4th quarter 2006**
Children waiting for services	206,974	234,189
Families waiting for services	132,003	148,167
Children needing **full-time** care	100,096	190,741
Children needing **part-time** care	47,378	62,956
Children needing **evening** care	8,725	9,509
Children needing **weekend** care	6,632	7,375
Children needing **Part-day Preschool**	7,899	10,535
Los Angeles		
LA county children waiting	43,881	57,774

PANELISTS

- California Department of Education
- Department of Finance
- Legislative Analyst's Office
- Parent Voices

ISSUE 3: STATEWIDE CHILD CARE QUALITY PLAN

BACKGROUND

California currently spends approximately $90 million each year for more than 40 child care "quality improvement" programs. Quality improvement activities include: (1) offering health and safety training for providers; (2) conducting provider licensing inspections; (3) developing learning standards and instructional materials; and (4) providing programming (broadcast over public television stations) aimed at better educating child care providers. As a condition of receiving federal Child Care Development Block Grant Funds (CCDF), California is required to spend no less than four percent of its federal grant and matching funds on activities designed to improve the quality and availability of child care, and the expenditures noted above, are designed to meet this requirement.

LAO RECOMMENDATION

The LAO notes that expenditures occur amongst multiple agencies and are not coordinated, nor do they occur in concert with a common definition of "quality" or in support of a unified statewide plan. To meet this end, the LAO recommends that the Legislature convene a working group of relevant stakeholders and direct it to develop a strategic child care and development quality plan by March 1, 2008.

REQUEST FROM PUBLIC TELEVISION

California Public Television requests an augmentation of $1 million to be used to expand the *Ready to Learn* program through more workshops, languages, and greater outreach to at-risk populations throughout the state. Ready to Learn is a Public Broadcasting preschool education outreach program created to increase the resources available to child care professionals, particularly family care providers. The program's goals include developing an enthusiasm for reading and learning in preschool children, supporting childcare providers with tools to enhance literacy, and encouraging parental involvement with their children's education. The program broadcasts in Spanish and English and conducts workshops for teachers, childcare providers, and parents. California Public Television states that currently one-third of the *Ready to Learn* funds come from CDE, one-third from the Corporation for Public Broadcasting, and the last third from other station fundraising. The Corporation for Public Broadcasting funding is scheduled to be phased out over the next three years.

California Public Television also requests the adoption of budget bill language to require CDE to use the following criteria to determine grant awards: (1) a minimum match; (2) a plan that identifies the providers to be trained; (3) number of trainers to be trained; (4) the quality of the training offered; (5) linkages to the child care community; and (6) cost effectiveness. The proposed BBL would also state that as a condition of receiving funds in the 2007-08 fiscal year, each grantee that received funds in the 2006-07 fiscal year shall complete and submit to the CDE by March 1, 2008 an evaluation of the effectiveness of the project operated by the grantee in improving the quality of child care provided in the affected community.

PROCESS FOR PUBLIC INPUT

Federal law requires the state to submit a Statewide Plan outlining how California intends to spend federal CCDF dollars. CDE submits such a plan every other year. The plan's preparation and review process is outlined in federal regulations and the Budget Bill language; however, the language contained in the Budget Bill details the review process. Child care advocates have suggested changes to the language, which would specify the length of the public hearing process to better allow public input on the development of the state's expenditure plan.

This item will be held open to permit additional time for staff to work with the Senate, LAO, DOF, and CDE on language to address concerns related to the public hearing process surrounding the state's CCDF expenditure plan.

PANELISTS

- California Department of Education
- Department of Finance
- Legislative Analyst's Office
- California Public Television
- Child Care Law Center

ISSUE 4: PRESCHOOL AND WRAP AROUND CHILD CARE

PRESCHOOL BACKGROUND

The California Department of Education (CDE) administers state preschool programs for 3- to 5-year old children from low-income families. These pre-kindergarten educational programs focus on early childhood education and enrichment and generally last for three hours. In the current year, the preschool services were expanded by $50 million with funds earmarked in the Budget Act, but appropriated by Chapter 211, Statutes of 2006. The expansion added approximately 12,000 slots, bringing total participation to over 110,000 children. The LAO finds that the demand for state supported preschool far outweighs the capacity -- approximately 34,000 children who meet eligibility requirements for state preschool are on CDE waiting lists.

Preschool Participation in California

	California Population	In State Preschool	In Other Preschool (Private or Head Start)	Total in Preschool	Percent in Preschool
Three-year olds	520,000	57,298	55,000	112,298	22%
Four-year olds	523,425	57,575	272,949	330,524	63
Totals	**1,043,425**	**114,873**	**327,949**	**442,822**	**42%**

Source: Total state preschool numbers provided by the California Department of Education for the 2005-06 school year. All other figures come from the RAND Corporation and Policy Analysis for California Education 2005 data or are extrapolated from that data.

Research shows that high-quality preschool programs for disadvantaged children can have substantial benefits. In particular, research shows that disadvantaged children who participate in preschool programs have higher reading achievement, are less likely to repeat the same grade, less likely to use special education, and more likely to complete high school than disadvantaged children who do not attend preschool. In addition, research shows that disadvantaged children who attend preschool are less likely to become involved in the juvenile justice system and have higher adult employment rates and income earnings.

State preschool providers contract directly with CDE and are reimbursed using a Preschool Reimbursement Rate, which is established in the annual Budget Act (the Governor proposed this rate be $21.12 per child per day for 2007-08, an increase of $0.82 per child per day or 4.04 percent – consistent with the statutory COLA).

2006 PRESCHOOL EXPANSION

Chapter 211 (AB 172, Chan, Statutes of 2006) appropriated $50 million of ongoing Proposition 98 monies to expand state preschool programs in targeted neighborhoods. This expansion will provide up to 12,667 new preschool slots in the enrollment areas of low-performing elementary schools. Additionally, the bill appropriated $5 million in one-time monies for wrap around services for children in these preschool classes. This modest expansion will allow up to 1,094 children to receive wrap around care for one year. This is about a 17 percent increase in the number of funded wrap around slots.

The current year budget appropriated $50 million in preschool expansion while Chapter 211, Statutes of 2006, provided the statutory framework for the expenditure of these funds. Rather than simply expanding the existing state preschool program, Chapter 211 sought to appropriate the funds in a more targeted manner, by establishing the new Pre-Kindergarten and Family Literacy Program (PKFL). This new PKFL program expanded state preschool, added a "wrap around" care component, which seeks to bridge preschool programs with child care programs in order to provide a full day's worth of care, and included a variety of additional criteria not otherwise included in the existing State Preschool program.

Standard System	Chapter 211 (PKFL) System
Eligibility	
Age: Three and four year olds. 10 percent of participants may be older.	***Age:*** One year prior to enrollment in Kindergarten.
Participation: Two-year maximum.	***Participation:*** One-year maximum.
Income: Families must earn less than 75 percent of State Median Income (SMI). 10 percent of participants may earn more after initial enrollment.	***Income:*** Families must earn less than 75 percent of SMI. 20 percent of participants may earn more at initial enrollment.
Location: Statewide.	***Location:*** Provider must be located in the enrollment area of an elementary school ranked in bottom three deciles of the Academic Performance Index.
Program Details	
Preschool Minimum Day/Year: 3 hours per day and 175 days per year.	***Preschool Minimum Day/Year:*** "Part-day" not defined. 175-180 days per year.
Wrap Around Minimum Day/Year: 6.5 hours per day. Number of days per year depends on contract.	***Wrap Around Minimum Day/Year:*** Minimum hours per day not specifically defined. Minimum of 246 days per year.
Preschool Curriculum: Includes education, nutrition, health and social services.	***Preschool Curriculum:*** Same as state preschool with added requirement of parental involvement and education.
Wrap Around Standards: Must comply with all Title V child care requirements.	***Wrap Around Standards:*** Same as standard system.
Funding (Proposed 2007-08 Rates)	
Preschool Rate: $21.12 per day per child.	***Preschool Rate:*** Same per child rates as standard. $2,500 per classroom per year.
Wrap Around Rate: $13.10 per day per child.	***Wrap Around Rate:*** Same as standard system.

According to CDE, interest in the new PKFL program has been widespread. CDE received over 185 applications for the program, and demand exceeded the available supply of grants by $9 million. With the new funds, Preschool programs will be developed on 439 new sites across the state. Given the timing of the implementing legislation (Chapter 211 went into effect on January 1, 2007); CDE will be unable to have contracts with grantees in place prior to April of 2007. As a result, approximately $37.5 million of the original $50 million appropriation will remain unexpended in the current year. In addition, at least $4 million of the $5 million appropriated for "wrap around" care, discussed below, will also remain unexpended in the current year due to limitations placed on its usage.

The Governor generally proposes to maintain the State Preschool Program at existing levels, with additional funding provided for growth (which will add approximately 2,550 new children into the program) and COLA (which will increase the Preschool Reimbursement Rate by $0.82 per child per day).

WRAP AROUND CHILD CARE

In addition to the baseline changes, the Governor proposes to make permanent $5 million in funds provided via Chapter 211 for "wrap around" care. Total funding under the Governor's proposal would exceed $418 million. The Governor's budget includes $5 million (in ongoing funds) to bridge preschool services with state-subsidized child care services, two systems which have struggled to successfully link. Anecdotally, a major barrier for low-income family participation in state preschool has been the part-day nature of the program when families are in need of full-day care. As a result, Chapter 211, Statutes of 2006 sought to address this issue by providing funding specifically for this purpose. However, the $5 million for wrap around care (both in the current year and proposed by the Governor for 2007-08) is linked directly with the PKFL program, as funded by the $50 million in expansion funds.

LAO PRESCHOOL ROADMAP

In its "Proposition 98 Roadmap", the LAO suggests to the Legislature that one priority should be a significant expansion of state preschool slots by 2011-12. An expansion of preschool as large as this would require planning and preparation. Even if funding were available today, not enough preschool facilities or providers are available to meet demand. Before any major expansion of the program, the LAO recommends developing better measures of program quality as well as creating stronger incentives to improve program quality on an ongoing basis. The LAO thinks these refinements are needed so that greater quantity is not provided at the expense of quality.

LAO SUGGESTION

The Governor's budget proposal provides $5 million in new ongoing monies to support wrap around care for children participating in the new PKFL programs. Effectively, the Governor's budget does not expand wrap around child care but instead converts the approximately 1,100 slots funded with one-time monies in 2006-07 into ongoing slots.

The LAO states that because wrap around child care operates on the general child care schedule (before and after school and all day on school holidays) and is provided at the preschool site, it promotes preschool attendance of children from low-income families by allowing their parents to maintain employment. Research indicates that a successful expansion of preschool, especially targeting low-income students, typically requires a proportionate expansion of wrap around child care. In essence, an investment in wrap around child care is an investment in preschool.

The unique specifications of the new PKFL programs requires CDE to issue a separate request for applications and to appropriate and track PKFL funds separately from the standard state preschool and wrap around child care programs. This not only creates ongoing work in tracking and reporting for state staff and providers but can reduce the potential impact of the funds. For example, because of the special PKFL requirements, little, if any, of the funds will be used in 2006-07, even though some 30,000 low-income children are on waiting lists for wrap around care.

The LAO states that the $5 million in new ongoing funds can be more efficiently used if they are available to any otherwise eligible low-income child and suggests that the Legislature designate the new funding for the standard wrap around child care program. Under this approach, PKFL providers still could apply for slots. By expanding the standard wrap around child care, the Legislature ensures a timely fund release and offering of services to approximately 1,000 low-income, disadvantaged children currently on the state waiting list for wrap around care.

PANELISTS

- California Department of Education
- Department of Finance
- Legislative Analyst's Office
- Preschool California, Fight Crime: Invest in Kids, Children NOW

5180 DEPARTMENT OF SOCIAL SERVICES

ISSUE 1: COMMUNITY CARE LICENSING FACILITIES INSPECTIONS

BACKGROUND

The budget requests $2.5 million ($2.4 million General Fund) and 34.5 positions to increase the number community care facility inspections and follow-up visits. Of the 34.5 positions, 28 would be used to increase from 20 percent to 30 percent the number of facilities that are randomly selected for annual visits and to ensure that required follow-up visits are conducted. The remaining 6.5 positions would be used to address Department of Social Services (DSS) follow-up enforcement deficiencies identified in the May 2006 BSA audit.

The Community Care Licensing (CCL) Division of DSS licenses over 85,000 community care facilities across the State. These facilities have the capacity to serve over 1.4 million clients requiring different types of care and supervision. Licensees include childcare facilities, certified foster family homes, foster family agencies, residential care facilities for the elderly, residential care facilities for the chronically ill, adoption agencies, transitional housing, and adult day care. Licensing activities are primarily carried out by state staff, although some counties are responsible for licensing child care and foster family homes. CCL staff are currently required to visit a randomly selected 20 percent of facilities annually, and visit all facilities no less than once every five years. At-risk facilities should be visited at least annually. Advocates contend that inspections occur far below the standards set in law and regulation, with some facilities being visited at far more infrequent intervals.

The proposed budget includes $119.9 million ($38.2 million General Fund) and 1,187.6 positions for CCL in 2007-08. This represents a 6.3 percent increase over the current year funding of $112.8 million ($32.3 million General Fund) and 1,114.1 positions. Approximately 15 percent of funding is for county licensing activities, and the remaining funding is for state licensing activities.

FACILITY VISITS

Historically, CCL was required to make annual visits to most types of facilities, and to visit childcare homes triennially. Budget reductions sustained by CCL during the 1990s significantly reduced the length and thoroughness of the required annual inspections. Upon additional budget reductions, DSS established priorities among its statutorily required activities. It prioritized the investigation of serious incident reports within the required 24-hour period. It also prioritized conducting site visits for complaint investigations within the required 10-day period. Annual or triennial visits became a lower priority.

The 2003-04 Budget Act, and its implementing legislation, eliminated the required annual or triennial visits and instead required DSS to annually visit facilities with specified compliance problems or federally required annual visits. All other facilities were subject to an annual inspection based on a 10 percent random sampling method, with each facility required to be visited at least once every five years. The 2003-04 Budget Act changes also included an escalator clause to trigger annual visits for an additional 10 percent of facilities if citations increase by 10 percent or more. However, sufficient resources were not provided to allow CCL to visit facilities at least once every five years – this would have required 20 percent of the facilities to be subject to random inspections, rather than 10 percent.

The 2005-06 Budget Act included additional resources to reflect caseload growth in the number of facilities licensed by CCL. In addition, DSS began a series of management and operational reforms to improve the efficiency of the program.

2007-08 LICENSING REFORMS

The 2006-07 Budget Act included $6.7 million and 80 new positions for CCL to complete required licensing workload and increase visits to facilities. The most significant components include:

- 38 permanent positions to increase the number of random visits from 10 percent of facilities to 20 percent each year.
- 29 two-and-a-half-year limited-term positions and $110,000 for overtime to eliminate the significant backlog in licensing visits.
- 1 one-year limited-term personnel position to assist with hiring the requested licensing positions.
- 5 permanent positions to operate a training academy for new licensing staff.
- 2.5 permanent positions to share the DSS database of excluded or abusive employees with other HHS departments.
- 4.5 permanent positions to handle information regarding convictions after arrest provided by the Department of Justice.

The 2006-07 budget also included trailer bill language to clarify that the department shall conduct unannounced visits to at least 20 percent of facilities per year.

BUREAU OF STATE AUDITS REPORT

The Bureau of State Audits (BSA) presented a report with findings and recommendations in May 2006 entitled, Department of Social Services: In Rebuilding Its Child Care Program, the Department Needs to Improve its Monitoring Efforts and Enforcement Actions. The report identified many critical licensing findings including missed inspection visits, lack of follow-up to critical deficiencies and enforcement actions, inadequate program oversight and accountability, and inconsistencies in licensing business practices among the 36 offices throughout the State. The BSA made numerous recommendations to ensure that DSS continues to make timely monitoring visits and improves its enforcement actions including improving reliability of data used; revising and clarifying policies for field staff; improving oversight of regional offices; developing automated management information; and continuing efforts to make all nonconfidential information about monitoring visits more readily available to the public.

2007-08 BUDGET PROPOSAL

The budget requests $2.5 million ($2.4 million General Fund) and 34.5 positions to increase the number of community care facility inspections and follow-up visits. The 34.5 positions are proposed for the following activities:

- 15.5 field staff would be used to increase from 20 percent to 30 percent the number of facilities that are randomly selected for annual visits and to ensure that required follow-up visits are conducted. These resources would enable CCL to comply with the statutory trigger that the number of facilities visited annually be increased by ten percent if total citations issued by DSS exceed the previous year’s total by ten percent.

- 11.5 support staff would be used to ensure that health and safety information is current and available to support field staff. Currently, field staff is responsible for performing support activities, which is resulting in fewer facility visits, slower processing time for new licensure application, longer time to complete investigations, and slower response time to requests for technical assistance.

- 6.5 positions would be used to conduct follow-up visits to facilities when a revocation order, a Temporary Suspension Order, or an exclusion order has been served. These resources would address DSS follow-up enforcement deficiencies identified in the May 2006 BSA audit.

- 1 existing limited-term personnel position set to expire would be continued in 2007-08 to process all the additional personnel who would be hired.

2007-08 TRAILER BILL LANGUAGE

The budget proposes a statutory change to the existing trigger language that requires annual visits for an additional 10 percent of facilities if citations increase by 10 percent or more. This trigger language was enacted in 2003-04 when the facility visit protocol was changed to due to budget constraints and intended to be a safeguard to ensure that monitoring visits would increase as violations increased. However, as DSS has increased licensing staff due to budget augmentations in the past two years, the number of monitoring visits has increased, resulting in an increased number of citations, as would be expected. This increase in citations does not necessarily indicate that more violations are occurring at facilities.

The proposed trailer bill language is intended to revise the trigger calculation to consider the net increase in citations relative to visits and only trigger an increase in random visits if the net change in citations is over 10 percent. These changes are intended to control for the effect of increasing the number of visits on the increasing number of citations that would trigger more random visits.

LICENSING UPDATE FROM CCL

DSS has provided the following summary of statistics for the first two quarters of fiscal year 2006-07.

Total Visits

- The total number of licensing visits to facilities is expected to increase to more than 95,000 visits completed. This total represents an increase of 4.4 percent over the visits completed last fiscal year.
- The current year is the first full year including the increase in required monitoring visits from 10 percent to 20 percent of total facilities. We still expect to complete approximately 90 percent of the required visits this year.
- The largest growth in visits completed is projected for follow-up visits for reported serious incidents and verifying correction of citations. These visits are expected to increase by 20 percent.

Citations

- With the increase in the number of visits completed, the number of citations issued also increased, with total citations expected to grow by 10.4 percent.
- There was also a slight growth in the number of citations issued per visit from .7 to .8 per visit.
- The mix of Type A to Type B has gone down. Type A reduced 3 percent from 55 percent to 52 percent.
- Total citations continue to increase and include a 6 percent increase in the more serious Type A citations and a 16.6 percent growth in Type B citations.

Complaints

- The total complaints received actually declined by 14.4 percent. However, decline in other categories was offset by a continuing growth in complaints received for the foster care licensing programs.
- Compliance with the required visit to initiate a complaint investigation within10 days remains a high priority, and visits were conducted within 10 days for 98 percent of the complaints received.

Unlicensed Facilities

- There has been a significant rise in the volume of complaints of unlicensed operation received. The number of unlicensed complaints received increased by 26 percent in SFY 2005-06, and has remained at that level for the current year. The largest increase was in unlicensed facility complaints for senior care, which grew by 52 percent.

APRIL FINANCE LETTER

The January 10 budget originally requested $4.9 million ($4.6 million General Fund) and 65 positions, but there were errors in DSS' workload calculations. A spring finance letter submitted on April 1 corrected those errors and reduced the original request by $2.4 million ($2.3 million General Fund) and 30.5 positions. The description in this agenda reflects the revised budget request.

PANELISTS

- California Department of Social Services
- Department of Finance
- Legislative Analyst's Office
- Advocates

ISSUE 2: LICENSING REFORM AUTOMATION

BACKGROUND

The budget requests $1.7 million ($1.5 million General Fund) and ten positions for the Department of Social Services (DSS) to begin a project to upgrade its information technology systems supporting the licensing program. Although already identified as a need in DSS' IT Strategic Plan, this proposal responds to findings of deficiencies in enforcement and inadequate program oversight and accountability in an audit of DSS' efforts to rebuild the child care program completed in May 2006 by the Bureau of State Audits (BSA). This IT project is expected to take two years to complete.

As discussed previously, the BSA presented a report with findings and recommendations in May 2006 entitled, Department of Social Services: In Rebuilding Its Child Care Program, the Department Needs to Improve its Monitoring Efforts and Enforcement Actions. The report identified many critical licensing findings including missed inspection visits, lack of follow-up to critical deficiencies and enforcement actions, inadequate program oversight and accountability, and inconsistencies in licensing business practices among the 36 offices throughout the State. According to DSS, most of the reported problems are due to known weaknesses and limitations in information technology (IT) systems supporting the licensing program.

In the past, the Legislature has expressed interest in two areas with regard to Community Care Licensing (CCL): 1) ensuring that CCL is effectively monitoring and enforcing facility safety; and 2) providing facility compliance information on the Internet. In 2006-07, CCL could not provide key information related to enforcement activities with noncompliant facilities. As a result, the Legislature required that DSS provide a report by April 1, 2007, on the costs to track this information in the future. The DSS has not yet provided this report. The Legislature also provided $366,000 for DSS to place facility inspection reports on the Internet, but these funds were subsequently vetoed by the Governor.

The DSS provided the Legislature an IT Strategic Plan in 2006 that describes the upgrades to automation that will improve its operations and enable it to address previous concerns expressed by the Legislature and the BSA. The IT Strategic Plan identifies five critical business areas that need to be enhanced including Field Office Automation, Public Web Services, Licensee Web Services, Background Check Process, and Central Office Support Services. The Strategic Plan estimates that these improvements will take a total of four years (contingent on available funding) and will be completed in two phases. The proposed automation project represents the most critical business area and comprises the majority of Phase One. It is estimated to be completed in two years. Phase One of the Strategic Plan also includes developing the ability to display facility inspection reports and file facility complaints on the Internet.

LAO ANALYSIS

In its 2007-08 Analysis, the Legislative Analyst's Office (LAO) notes that the budget proposal will address some of the concerns of the Legislature by enabling CCL to track the effectiveness of monitoring and enforcement. However, the proposed automation project does not include providing access to any licensing information on the Internet. The DSS indicated that it must first make fundamental improvements to the basic tracking and management of licensing operations and providing information on the Internet cannot currently be done within fiscal constraints. The LAO observes that the automation project will not meet the schedule outlined in the Strategic Plan and will not address a key legislative goal.

The LAO recommends that DSS report during the budget hearing on estimated time and cost to complete all of the features outlined in Phase One of the Strategic Plan, including making licensing information available on the Internet.

ACCESS TO FACILITY INFORMATION

Advocates are interested in working on language to increase access to facility information for families served by CCL and its operations. Ideally, this process would include DSS working in consultation with counties, the Legislative Analyst's Office, legislative staff, the Health and Human Services Agency, the Department of Finance, and other stakeholders to develop a comprehensive plan to make information regarding all licensed facilities available to the public. The plan could incorporate quality reporting measures for facilities and access to both individualized and aggregate licensing, compliance, inspection, and citation information. As advocates continue to consider this proposal, they are encouraged to consider requirement timelines and what can be undertaken by the CCL given resources.

PANELISTS

- California Department of Social Services
- Department of Finance
- Legislative Analyst's Office
- Advocates

ISSUE 3: UPDATE FROM RESIDENTIAL REGULATION REVIEW WORKGROUP

BACKGROUND

This Subcommittee No. 1 on Health and Human Services held a hearing in November 2005 to discuss the CCL and its efforts to rebuild the Licensing Program. An essential element of this hearing was the opportunity for key stakeholders to identify areas of concern and to provide suggestions for improvement. When discussing issues relative to foster children, many stakeholders voiced concern that the existing Children's Residential Regulations contain provisions that are either outdated or do not promote a home-like environment and have become barriers to preparing foster youth for life as an independent young adult.

Many of the state's foster care licensing statutes, regulations, and policies have understandably been developed with the sole objective of protecting the safety of children and youth in foster care, with little regard for the creation of a foster home environment that resembles actual nonfoster care living environments. In many cases these rules serve to stigmatize foster children and youth by subjecting them to conventions dissimilar to other children.

Examples given by stakeholders included:

- Not allowing foster children and youth to participate in athletic and recreational activities, including water activities.
- Not allowing 17-year olds to remain in the home alone for short periods of time, even if deemed safe and appropriate.
- Not allowing foster youth to have appropriate access to household and personal cleaning products, such as laundry detergents and shampoos.
- Not allowing foster youth to have appropriate access to over-the-counter medicines, for the purpose of learning reasonable self-care.

SB 1641 (Soto, Chapter 388, Statutes of 2006) maintained that these rules are also often viewed as unreasonable by prospective foster parents and therefore serve to discourage them from becoming foster parents. Foster care licensing requirements should be developed and implemented in a manner that is consistent with current program best practices and the goals and objectives of the Child Welfare System Improvement and Accountability Act of 2001 (Chapter 678 of the Statutes of 2001).

DSS convened a children's residential regulation review workgroup, which includes representatives of the department and interested stakeholders, to review community care licensing foster care statutes, regulations, and policies, to ensure that they promote the safety and well-being of children and youth in foster care, and who are leaving foster care. The Legislature stated its intent in SB 1641 that youth placed in out-of-home foster care be given an opportunity to live in an environment that resembles as closely as possible nonfoster care families. Furthermore, the Legislature stated its intent to ensure that all licensing statutes, regulations, and policies serve to promote the well-being of children and youth in foster care and who are leaving foster care and to ensure children and youth are safe and protected in foster care.

The legislation requested that the DSS director report to the Legislature during the 2007-08 budget hearings on the progress of the department's children's residential regulation review workgroup. The report shall include all of the following:

a. A summary of the activities of the workgroup up to the date of the report.
b. The timeline for completion of the workgroup's activities.
c. Any recommendations being considered for statutory, regulatory, and policy changes, and any workplan for the implementation of those recommendations.

DEPARTMENT UPDATE

DSS will report to the Subcommittee on the progress of this report. DSS states that it convened a workgroup consisting of:

- Legal advocates
- Representatives from children’s advocacy organizations
- Probation and judicial organizations
- County Welfare Directors Association
- Care provider associations
- Foster parents
- Former foster children
- Social workers
- California Department of Social Services staff from the Legal Division, Children and Family Services Division, and Community Care Licensing Division

The first meeting was held in May 2006 and continuous meetings have been held almost every month. The goal of the workgroup is to ensure licensing regulations promote a “normal childhood” experience in a home-like environment, encourage self-reliance and independence to those youth who are leaving foster care while ensuring they promote the health, safety, and well-being of children and youth in out-of-home care.

At the first meeting, before the real work began, the workgroup recognized that not all of the issues that would be discussed are issues related to outdated or problematic licensing regulations. The workgroup understood that some of the issues may be training related, or even require a statutory change to resolve. Any and all approaches would be considered in its efforts to resolve the issues presented.

Guiding principles were developed for the regulation changes, which include:

- Providing for the health, safety and well-being of children;
- Be clear, concise, user-friendly, and simple;
- Promote a "normal childhood" experience; and
- Prepare foster youth for adulthood.

DSS reports that its efforts began with identifying the existing barriers to preparing foster youth for life as independent adults and creating normal, home-like environments. With such a diverse group, it was no surprise that many of the issues identified fell outside of the scope of the licensing regulations and statutes. However, when specifically focusing on self-reliance and independence to those youth who are leaving foster care, stakeholders maintain that foster caregivers must be able to provide an environment that is conducive to preparing the youth for adulthood. Examples include:

- Lack of necessary information about the foster child at the time of placement inhibits the caregiver's ability to provide the most appropriate environment and experiences for the child. The caregiver needs specific information about the child to provide for the child's health and safety, help to prepare the child for adulthood, and to provide a normal childhood experience.
- Foster youth should learn, if age and developmentally appropriate, to administer his or her own medications.
- Foster youth should learn, if age and developmentally appropriate, skills needed for independence such as doing their own laundry and managing their money.
- Job training and assistance should be encouraged and allowed before emancipation so foster youth have needed work skills and references.
- Social workers need to work more closely with caregivers and foster youth to make educational and medical decisions for the sake of independence and well-being.

Other practices noted that impede normalcy and eventual independence include:

- Foster youth are not encouraged to make connections in the new communities they are placed in, like going over to friend's houses, receiving or calling friends.

- The regulations have been interpreted to not allow a foster youth to be alone in the home while the caregiver runs a simple errand.

- Participating in normal childhood activities.

- Information shared between institutions needs to be consistent.

Another area identified by the workgroup is caregiver qualifications. The workgroup discussed the minimum qualifications for becoming a foster parent and whether these minimum qualifications may be inadequate to determine whether an individual possesses the skills and knowledge necessary to perform as a foster parent. After identifying all of these issues, the workgroup began a thorough review of the actual foster family home licensing regulations and considered whether they are consistent with the developed guiding principles and how the issues raised could be addressed with substantive revisions to the regulations. The workgroup concluded its review of all of the foster family home regulations at the April 2007 meeting.

CCL, with the recommendations of the workgroup, drafted proposed regulations for Article 3 of the foster family home regulations. The main focus was to integrate the prudent parent standard, fold in legislative mandates and modify the regulations to meet the guiding principles set forth by the workgroup. This draft was handed out to the workgroup at the April 2007 meeting. The workgroup will meet in May 2007 to review the draft of Article 3 foster family home regulations. At the end of this meeting, CCL will provide the workgroup with a summary of the workgroup's recommendations for revisions to Articles 1, 2, 4, and 5 of the foster family home regulations.

The workgroup will break for the summer months. During this break, CCL will draft proposed regulations for Articles 1, 2, 4, and 5. The workgroup will reconvene in September 2007 to review the entire draft of the foster family home regulations. CCL anticipates the review will continue for a couple of months.

PANELISTS

- California Department of Social Services
- Department of Finance
- Legislative Analyst's Office
- Advocates