AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 1 ON HEALTH AND HUMAN SERVICES

Assemblymember Hector De La Torre, Chair

WEDNESDAY, APRIL 27, 2005
STATE CAPITOL, ROOM 4202
1:30pm

CONSENT ITEM

ITEMS TO BE HEARD

ITEMS FOR CONSENT

ITEM 5180 DEPARTMENT OF SOCIAL SERVICES

CONSENT ISSUE #1: SPRING FINANCE LETTER LICENSING WORKLOAD ADJUSTMENT

The Department of Finance (DOF) has issued an April 1st Spring Finance Letter increasing Department of Social Services (DSS) licensing staff to meet an increasing number of licensees.

BACKGROUND:

On April 1, 2005, DOF issued a finance letter that will impact the DSS Community Care Licensing (CCL) Division. The Department requests 14.5 additional positions, effective July 1, 2005, for a budget year cost of $1.4 million. The additional positions address a growth in the number of licensed facilities that has resulted in additional workload for the Department.

STAFF COMMENT:

In previous fiscal years, the Subcommittee has unanimously adopted similar requests for additional CCL positions based upon increased caseload levels.

There have been no issues raised with this additional staffing.

CONSENT ACTION:

Adopt Spring Finance Letter.

ITEMS TO BE HEARD

ITEM 5180 DEPARTMENT OF SOCIAL SERVICES

ISSUE #1: COMMUNITY CARE LICENSING INSPECTION VISITS

The Governor's Budget includes Trailer Bill Language to remove a statutory trigger that would increase the frequency of inspections for some types of licensed facilities.

BACKGROUND:

The Governor's Budget includes a provision to delete a section of the Health and Safety code that requires the Department to conduct additional visits to licensed facilities if an increase in citations exceeds 10 percent of all licensed facilities. The proposed change is estimated to save $2.6 million General Fund in the budget year.

The CCL Division conducts periodic visits to licensed facilities to ensure that they are complying with required health and safety regulations. CCL also responds to complaints regarding facilities and can levy citations and penalties against licensed providers that are not complying with the law.

AB 1752, the 2003 Human Services Trailer Bill, reduced the frequency of CCL visits for all licensed facilities. Prior to the change, most CCL licensed facilities were visited annually (family child care homes were visited once every three years) on the anniversary of the issuance of the license. AB 1752 changes that provision to require CCL to conduct inspections of a random 10 percent sample of each type of licensed facility each year. Each facility must be visited at least once every five years, and those visits would be unannounced.

The changes in AB 1752 were necessary due to a significant decrease in CCL staffing after an unallocated reduction to DSS's State Operations and a reduction enacted as part of the 2003 budget. The reduction to the frequency of periodic inspections was made so that there would be no reductions to complaint staffing. At the time, data from CCL indicated that 92 percent of the legal actions taken by CCL were the result of complaints, while only 8 percent of actions were the result of the periodic inspection of the facility.

However, in response to concerns about safety, the Legislature inserted a trigger provision in the Trailer Bill to require CCL to conduct additional visits if the number of citations issued by CCL increased by more than 10 percent from the previous year. If the trigger is pulled, CCL must double the required sample of sites that must be visited to 20 percent per year. DSS expects that an observed rise in citations issued this year will trigger an increase in the required visits in the budget year—resulting in a $2.6 million General Fund cost to the State.

EFFECT OF FEWER VISITS:

Some advocates have suggested that DSS should return to annual site visits. Returning to annual site visits would be expensive, as the number of facilities licensed by CCL has increased since the change to the visit requirements was made. The chart below illustrates the impact of the reduction on the level of CCL staffing and the corresponding increase in licensed facilities:

Authorized Positions for Community Care Licensing Division

Year	2001/02	2002/03	2003/04	2004/05	2005/06
Positions	1181.1	1115.4	1018.4	1015.4	1028.6
Total Facilities	85,971	89,770	92,460	93,221	94,701
Facility/ Staff	73	80	91	92	92

DSS reports that it does not believe it will inspect the required ten percent sample of sites required under current law. The Department expects to inspect about 87 percent of the required number of sites due to staffing shortages. CCL is currently experiencing a vacancy problem and is in the process of opening a new State exam to recruit staff to conduct the required visits.

LICENSED FACILITIES:

The chart below illustrates the number of licensed sites served by CCL:

Fiscal Year	2001/02	2002/03	2003/04	2004/05	2005/06
Child Care					
FCCH	41,272	42,949	44,418	44,802	45,833
CCC	14,229	14,547	14,690	14,810	14,938
Child Care Totals	55,501	57,496	59,108	59,612	60,771
Children & Adult Residential					
AA	107	110	108	109	110
FFA	455	461	473	485	499
SFH	400	388	377	362	349
FFH	3,639	3,717	3,915	4,175	4,351
GH	1,634	1,685	1,734	1,770	1,833
ARF	4,714	4,822	4,890	4,921	4,983
RCFCI	28	28	25	24	22
RCFE	6,204	6,313	6,491	6,704	6,890
ADC	693	726	741	756	770
SRF	72	72	73	73	74
Residential Totals	17,946	18,322	18,827	19,379	19,881
CCL Program Totals	**73,447**	**75,818**	**77,935**	**78,991**	**80,652**
Certified Family Homes	12,524	13,952	14,525	14,230	14,049
CCL Program and CFH Totals	**85,971**	**89,770**	**92,460**	**93,221**	**94,701**

PANELISTS:

Ed Bolen
Child Care Law Center

Tim Fitzharris
Child Development Policy Institute

Patty Siegal
California Resource and Referral Network

STAFF COMMENT:

The trigger provision was added by the Legislature as a condition of agreeing to the proposed reduction in licensing visits.

ISSUE #2: LIVE SCAN FEE EXEMPTION

The Governor's Budget includes Trailer Bill Language to eliminate a fee exemption for small child care providers undergoing required criminal background checks.

BACKGROUND:

The Governor's Budget includes Trailer Bill Language to eliminate a fee exemption for small child care providers undergoing required criminal background checks for a General Fund savings of $1.5 million in the budget year.

All licensed child care providers are required to submit their fingerprints for criminal background checks performed by the Department of Justice and the FBI. Most providers pay a $40 fee to cover the costs of these criminal background checks. State law currently exempts smaller licensed child care facilities from this fee. For the current year, this provision is suspended for one year.

STAFF COMMENT:

Last year the Legislature took action to suspend the fee exemption for one year.

ITEM 5180 DEPARTMENT OF SOCIAL SERVICES
ITEM 6110 DEPARTMENT OF EDUCATION

ISSUE #3: OVERVIEW OF CHILD CARE CASELOAD AND PROPOSED REDUCTIONS

The Subcommittee will consider the proposed changes to child care included in the Governor's Budget.

BACKGROUND:

The Administration's child care proposal in the January 10th Budget results in a $69.5 million savings to the CalWORKs program and $102.6 million savings to Proposition 98 funds. The chart below details the impact on the budget from the proposal:

Summary of savings by program FY 05-06

Proposal	**11-12 Shift**	**In and out of market**	**Tiered Reimbursement**	**Total Savings**
Assumption	Budget year 25% 11-12 shift to After school care	Not in market FCCH estimate - Moves 30% of FCCH to average FCCH payment	RMR - Exempt providers savings based on 70% moving to 60% of the FCCH RMR rate and 30% moving to 55% of the FCCH RMR rate ceiling.	(in millions)
Stage 1	$6.8	$1.8	$60.8	$69.5
Stage 2	$8.7	$3.4	$52.5	$64.6
Stage 3	$4.3	$1.8	$5.8	$12.0
GCC	$1.5	$0.0	$0.0	$1.5
AP	$2.5	$1.1	$21.0	$24.6
Total	$23.8	$8.2	$140.1	$172.1

The Governor's Budget also includes changes that do not result in budget year savings.

CASELOAD TRENDS:

Child Care Slots	Revised 2001-2002	Revised 2002-2003	Revised 2003-2004	Estimated 2004-2005	Proposed 2005-2006
General Child Care	89,500	89,500	87,300	86,100	88,000
CalWORKs Stage 1	74,122	76,474	68,317	83,000	94,700
CalWORKs Stage 2	115,300	100,692	96,863	84,000	89,700
CalWORKs Stage 3	39,468	50,082	59,900	51,200	14,500
Alternative Payment	33,400	33,400	33,000	32,000	71,000
Migrant Day Care	9,000	9,000	9,000	9,000	9,000
Extended Day Care	6,000	6,000	6,000	6,000	6,000
Campus Child Care	600	600	600	600	600
Severely Handicapped	200	200	200	200	200
Total	**367,590**	**372,145**	**363,780**	**353,453**	**373,700**

ISSUE #4: TIERED REIMBURSEMENT OF LICENSED-EXEMPT CHILD CARE PROVIDERS

A proposed reduction to Licensed-Exempt child care rates yields most of the child care savings assumed in the Governor's Budget.

BACKGROUND:

The Governor's Budget assumes the enactment of a tiered reimbursement proposal that would results in $140.1 million in savings in the budget year, over 80 percent of the total savings assumed for child care reforms in the budget year. In the budget year, all of the savings are achieved through the reduction of Licensed Exempt reimbursement rates. Families that receive a child care voucher through the Alternative Payment Program or CalWORKs child care can choose to have their care provided by an unlicensed individual, provided that that individual meets certain minimum criteria. Under current law, Licensed Exempt providers are paid 90 percent of the maximum rate that licensed Family Child Care Home providers are reimbursed.

Under the proposed change, there would be two tiers of licensed exempt care. Upon enactment of the Budget, all licensed exempt provider reimbursement rates would be reduced to 60 percent of the regional market rate ceiling. Licensed exempt providers will then have 180 days to demonstrate higher quality as outlined in the following chart or their rates would be reduced to 55 percent of the market rate ceiling.

Tier of Reimbursement	Qualifications	Reimbursement Rate
Higher Quality	License-exempt providers that have completed health and safety training, or CDD license-exempt training, or have an assistant teacher's permit.	60 percent of the Family Child Care Home's reimbursement rate ceiling.
Base rate	Current Licensed Exempt Trustline requirements	55 percent of the Family Child Care Home's reimbursement rate ceiling.

The table below compares the impact of reducing the licensed exempt child care rates for full time care for school-aged children in three counties (monthly rate):

Monthly Child Care Maximum Reimbursement Rates

License-Exempt Providers

Percent of FCCH[a] Maximum	Sacramento	San Francisco	Los Angeles	Contra Costa	Fresno	Shasta
90 percent[b]	$526	$780	$585	$624	$488	$468
60 percent[c]	351	520	390	416	325	312
55 percent[d]	321	476	357	381	298	286
Potential Reduction	**-$205**	**-$303**	**-$227**	**-$242**	**-$190**	**-$182**

a Family child care homes.

b Current license-exempt rate limits are based on 90 percent of the FCCH rate maximum (85th percentile) for full-time monthly care for a child age two through five.

c Reflects the maximum reimbursement rates if exempts are limited to 60 percent of the 85th percentile of the FCCH rate maximum.

d Reflects the maximum reimbursement rates if exempts are limited to 55 percent of the 85th percentile of the FCCH rate maximum.

WHO USES LICENSED-EXEMPT CARE?

Licensed exempt care is the most prevalent form of care for families entering the CalWORKs system. However, there is a significant drop in the utilization of this care as families exit CalWORKs. Some child care advocates have argued that families need the flexibility of exempt-care to find immediate care to facilitate participation in CalWORKs but once a family has stabilized their schedule and moved off of aid, the parents often look for more permanent care options. The LAO's chart below illustrates the use of licensed-exempt care:

Proportion of Children Served in Each Care Type by Program

Care Type	CalWORKs[a] Stage 1	CalWORKs Stage 2	CalWORKs Stage 3	Alternative Payment	Totals
License-exempt	60%	50%	47%	28%	48%
FCCHs	]—40[b]	29	27	39	]—52%[b]
Centers		21	26	33	
Totals	**100%**	**100%**	**100%**	**100%**	**100%**

a California Work Opportunity and Responsibility to Kids.

b Family child care homes. The Stage 1 distribution between centers and FCCHs was not available

Families that need care during "non-traditional" hours, such as night, weekends, and early mornings, often use licensed-exempt care. Many child care advocates have cited a lack of licensed child care capacity at these times. This lack of capacity at these hours may partially explain the utilization rates of licensed-exempt care. The chart below illustrates the use of licensed-exempt care in non-traditional hours at several Alternative Payment Programs:

Alternative Payment Provider	Type of Care	Traditional Hours Care	Non Traditional Hours Care	Total Hours Care	Percentage Non-Traditional Hours
Sacramento	Licensed	4243	1721	5964	29%
Sacramento	Licensed-Exempt	1606	4617	6223	**74%**
Yolo	Licensed	443	359	802	45%
Yolo	Licensed-Exempt	170	392	562	**70%**
Alameda--Child Care Links	Licensed	844	437	1281	34%
Alameda--Child Care Links	Licensed-Exempt	788	486	1274	**38%**
Alameda--Bananas	Licensed	650	205	863	24%
Alameda--Bananas	Licensed-Exempt	535	466	1001	**47%**
Contra Costa	Licensed	1262	118	1380	9%
Contra Costa	Licensed-Exempt	934	577	1511	**38%**
Children Counsel-San Francisco	Licensed	1163	386	1549	25%
Children Counsel-San Francisco	Licensed-Exempt	859	1376	2235	**62%**

PANELISTS:

Javier LaFianza
Crystal Stairs

Carol Roberts
Valley Oak Children's Services

Lynn Patten
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Amy Lee

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Child Care Alliance of Los Angeles

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Child Care Law Center

Patty Siegal
California Resource and Referral Network

STAFF COMMENT:

The Subcommittee must consider how any potential reduction to licensed-exempt reimbursement rate would impact the supply of licensed-exempt providers. Given evidence that some families working non-traditional hours can only find licensed-exempt care to meet their child care needs, such a reduction could make finding care more complicated.

Child care advocates have also commented that families that have children with special needs also find that licensed-exempt care may be the only care that meets their needs.

The Department of Education is currently undertaking an effort to provide training to licensed-exempt providers. The Governor's Budget includes $9.8 million of prior-year child care quality funding for this effort.

The DOF had modified the proposed trailer bill language to allow 180 days to implement the new rates for licensed exempt care. The initial trailer bill was submitted with the Governor's Budget

ISSUE #5: TIERED REIMBURSEMENT FOR LICENSED CARE

The Governor's Budget includes a tiered-reimbursement proposal for licensed care that would take effect in two years.

BACKGROUND:

The Governor's Budget proposes a tiered reimbursement proposal for licensed care that would reduce the maximum rate for most child care providers in 2007-2008. The concept behind tiered reimbursement is that the maximum reimbursement level for child care is based upon the quality of the provider. The Administration's 2004-05 Child Care Reform Proposal and the California Performance Review both included tiered reimbursement proposals. The chart below indicates the proposed tiered reimbursement rate proposal:

Governor's Tiered Reimbursement Proposal
For Licensed Providers

*	75 percent of the 85th percentile RMR.[b]	None.	None.
**	85 percent of the 85th percentile RMR.[b]	Environmental rating scale average of 4 or associate teacher permit.	Environmental rating scale average of 4 or all teachers have teacher permit.
***	85th percentile RMR.[b]	Environmental rating scale average of 5.5, teacher permit, associates degree, or accreditation.	Environmental rating scale average of 5.5, all teachers have bachelor's degree, or accreditation.

[a] Family child care homes.
[b] Regional Market Rate (RMR) survey of providers in the area offering the same type of child care. The RMR will vary by care type.

Under the proposal, in fiscal year 2007-08, for operators of Family Child Care Homes to be eligible to receive the maximum reimbursement rates they must demonstrate an average score of 5.5 on an environmental rating scale, or have received accreditation through the National Association for Family Child Care, or have a teacher's permit or an AA degree. Similarly, for licensed child care centers to be eligible to receive the maximum reimbursement rate they must demonstrate an average score of 5.5 on an environmental rating scale, or all their teachers must have a BA degree, or they must have received accreditation from either the National Association for the Education of Young Children or the National After School Association (formerly the National School-Age Care Alliance). To allow time for licensed providers to seek out and use these measures, the current reimbursement ceiling for licensed providers will be maintained for two years, after which time reimbursement ceilings will be set according to a provider's quality-of-care. The Governor's Budget includes $10 million for the training and continued calibration of raters and evaluations of providers.

The Budget includes $2.7 million in funding to begin training and calibrating raters to provide the environmental rating scale reviews necessary for the proposed tiered-reimbursement.

PANELISTS:

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CAPPA

Alycia Young
Oakland Licensed Day Care Operators' Association

Rosie Alcantara

Grace Cainoy
Child Care Alliance of Los Angeles

Patty Siegal
California Resource and Referral Network

STAFF COMMENT:

The proposed tiered reimbursement rate would determine the rate ceiling; the actual rate that a provider would receive would be based upon the rates of private paying families utilizing the same type of care for the same age child in that area.

ISSUE #6: STANDARD REIMBURSEMENT RATE

The Standard Reimbursement Rate is often lower than the Regional Market Rate.

BACKGROUND:

The Department of Education operates the General Child Care program, which contracts with large licensed child care centers that meet Title 5 licensing requirements. About 88,000 children are expected to receive care using this delivery mode. Unlike the voucher programs, in this General Child Care program CDE purchases dedicated slots in a Title 5 Center and the center fills these slots with families with eligible children. These centers must meet the State's most rigorous licensing requirement in order to qualify for these contracts. The State reimburses these facilities using a Standard Reimbursement Rate (SRR), which is a single rate for the entire State and does not factor in cost difference in different geographic regions.

In many parts of the State, the SRR lags behind the Regional Market Rates that the State pays for vouchered care. This gap is particularly acute in the Bay Area counties, where the cost of care is much higher than the State average.

The chart below illustrates the difference between the SRR and the RMR for pre-school aged children in the 17 counties where the RMR rate is higher than the SRR:

County	Monthly Center Preschool Ceilings	
	RMR	SRR *
Santa Clara	988.00	600.42
Marin	930.00	600.42
Alameda	919.00	600.42
Napa	900.00	600.42
San Francisco	900.00	600.42
Solano	900.00	600.42
San Mateo	868.00	600.42
Contra Costa	840.00	600.42
Santa Cruz	765.00	600.42
Los Angeles	672.00	600.42
Orange	660.00	600.42
Santa Barbara	642.00	600.42
Sonoma	641.00	600.42
Yolo	629.00	600.42
Monterey	625.00	600.42
Ventura	620.00	600.42
San Diego	604.00	600.42

Many child development experts have noted that the structure of the SRR results in the providers in these counties received a lower reimbursement than vouchered child care facilities that are not required to meet such strict standards.

LAO RECOMMENDATION:

LAO recommends that the Legislature transition Title 5 providers to the RMR structure and that they receive the maximum RMR for their region. These changes to the Title 5 provider rates would promote parity with the voucher providers' rates and would help ensure that Title 5 provider rates better reflect regional cost variations. Under this system, many Title 5 providers' rates would increase, while some may decrease.

PANELISTS:

Patty Siegal
California Resource and Referral Network

STAFF COMMENT:

Child care advocates commented that some child care centers meeting Title 5 requirements are considering discontinuing their General Child Care contracts because they cannot get reimbursed for their costs.

The Department of Education estimates that it would cost $119.5 million to reimburse Title 5 centers in counties that have an RMR above the SRR at the higher RMR level.

ISSUE #7: ADMINISTRATION AND ERROR RATES IN VOUCHERED CHILD CARE PROGRAMS

The results of an extensive error rate study have been released, but now the State must grapple with how to implement its recommendations.

BACKGROUND:

Last year, the Assembly Budget Committee conducted oversight hearings on possible problems of fraud, waste, abuse, and overpayments in child care programs. The hearings concluded that Alternative Payment Programs varied in their efforts to prevent overpayments and fraud in the administration of child care vouchers and that further research could help improve the consistency of administration to these programs.

SB 1104, the Human Services Trailer Bill, required the Department of Education to prepare an error rate study to better determine the extent and the nature of error rates in child care programs.

The Department of Education released their final report on April 19, 2005. The report found that although the overall errors in the administration of child care voucher programs were consistent with the error rates in other comparable programs, there were areas in which the State and individual AP contractors could improve the administration of the program to reduce these errors.

ERRORS IN ADMINISTERING ELIGIBILTY AND FAMILY FEES:

The report found a low incidence of errors (3 to 5 percent) in the determination of a family's eligibility and assessment of family fees. Most errors were attributed to the lack of sufficient documentation in files to satisfactorily determine eligibility and incorrect calculations of family incomes.

Administration of Eligibility and Family Fees Report Recommendations:

- The Department should promulgate regulations to:

    1) Specify the necessary document of eligibility and calculation of income;
    2) Create standards and procedures of non-traditional employment; and
    3) Develop a procedure for verifying income when less then full cooperation is received from a recipient's employer.

ERRORS IN DETERMINING NEED FOR CHILD CARE:

The report also found a low incidence of errors (8 to 10 percent) in the determination of a family's need for care. Most errors were attributed to insufficient documentation in the clients file, a lack of updated information within the file, or incorrect interpretation of the vague State regulations.

Determination of Need Report Recommendations:

The Department should promulgate regulations to:

- Require agencies to obtain releases from recipients to independently verify employment;
- Specify standards and procedures for documenting need in areas of incapacity, seeking employment, and enrollment in vocational activities.
- Specify standards and procedures for documenting need in non-traditional employment or when less then full cooperation is received from the recipient's employer
- Specify standards and procedures for those recipients who are employed as in-home caregivers.

PROVIDER PAYMENT ERRORS:

The report found most errors (11 to 15 percent) were the result of incorrect provider payments. Most errors were attributed to inconsistent information regarding the amount of care authorized versus the amount of problems 1) matching signatures of recipients within the file, 2) providers receiving a rate above the market rate, and 3) a lack of uniform enforcement of required sign-in and sign-out sheets.

Provider Payment Errors Report Recommendations:

- The Department should enforce current regulations to require providers to use sign-in and sign-out sheets to document attendance.

- The Department should promulgate regulations to:

    1) Require agencies to compare the signatures of the parent on the attendance sheets with the signatures in the family file and also compare the signatures of the provider on the claim form to signatures on the provider agreement.

    2) Require all agencies to use providers agreements containing the reimbursement rate, the provider's days and hours of service and certified hours as the primary instrument for doing business with the provider.

ABSENTEEISM AND STATUS OF WORKING FAMILES:

The Error Rate study included two other findings related to absenteeism and employment verification. As part of the error rate study, CDE conducted visits of family child care homes and licensed exempt providers to determine whether the children were present at the facility when the care was regularly scheduled. The findings of effort found absenteeism rates of between 17.8-16.3 percent for all providers of these three modalities. CDE also attempted to verify the employment of all working recipients; this effort found 16.3 percent of the recipients could not be verified, suggesting that more follow up was needed in these cases.

Both the above efforts identified statistics that suggest that further study might be warranted to explain the cause of these two findings. Feedback from the child care community suggests that language barriers might have accounted for some cases being counted as absent, when in fact the child was there.

Absenteeism/Employment Verification Report Recommendations:

- The Department should promulgate regulations to:

    1) Specify the procedures and standards for verifying Trustline approval.

    2) Require intermittent re-verifications of parent employment and attendance in vocation education.

    3) Specify standards for reimbursing in-home care exempt providers consistent with federal law.

    4) Require provider visits, contingent on an appropriation for this purpose.

    5) Set standards for provider participation.

    6) Improve communications between local Alternative Payment agencies and county welfare departments regarding recipients and providers that do not adhere to program standards.

AGENCY INTERNAL CONTROLS:

CDE looked at internal control practices of agencies to see how they handled staff conflict of interest, separation of duties and responsibilities, and quality assurance. CDE found that current regulations did not require some of these internal control practices.

Agency Internal Control Report Recommendations:

- The Department should promulgate regulations to:

  1) Require separation of duties, based upon size of agency, to promote internal integrity.

  2) Require internal control activities.

  3) Set clear standards for conflicts of interest between agency staff, providers, and beneficiaries of services.

  4) Require that independent auditors be hired by the Board of Directors of private organizations that administer child care and report directly to the Board.

  5) Prohibit relatives or business associates of executive staff from serving on the Board of Directors.

FUNDING FOR AP ADMINISTRATION HAS DECLINED:

Alternative Payment Programs can charge the State up to 19 percent of their child care expenditures for administration. Since the funding is a percentage of the total funding for child care, AP's must reduce their administration when the overall amount of child care is reduced. As a result many efforts to reduce child care costs implemented over the last five years have both increased the amount of work AP's must do while also reducing their level of funding. Given the scope and number of recommendations in the error rate study, this structure of reimbursement for administration may not be provide enough stable resources for these programs to adequately administer the program.

PANELISTS:

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Crystal Stairs

Teresa Corrigan
Child Action

Cliff Marcussen
Options

Grace Cainoy
Child Care Alliance of Los Angeles

Nancy Strohl
Child Care Law Center

STAFF COMMENT:

The error rate study was released on April 19, 2005. The Subcommittee may wish to examine the next steps that CDE will take to implement the recommendations proposed in the study.

The error rate study is one of several different proposals that will substantially increase the workload and responsibilities of the Alternative Payment Programs. The Subcommittee may wish to examine the extent that all of these changes could occur in the budget year.

ISSUE #8: REGIONAL MARKET SURVEY METHODOLOGY UPDATE

CDE is adopting a new market rate methodology that will change the way child care programs are administered.

BACKGROUND:

The CDE has contracted with an independent research firm for a new RMR survey methodology. The new methodology would address problems in the current RMR survey. By reducing non-response rates and using a sophisticated new method of grouping providers based on demographic variables, the approach is expected to increase the accuracy of the estimates of market costs of child care in particular communities. The CDE is currently in the process of final reviews and adjustments to the methodology and aims to secure the required approval for adoption from DSS and DOF during the current year. The CDE is planning to implement the new RMR survey in 2005-06.

The Department is considering using this new survey methodology to change the way rates are calculated. Currently, the rates are calculated at the county level. The new methodology makes it possible for providers to be reimbursed at a rate determined by their zip code. The new system would have 13 different zip code schedules for child care centers and 24 different rate schedules for family child homes. The new system would become effective January 2006.

LAO SEES PROMISE TO NEW METHODOLOGY:

From the *Analysis*:

In setting reimbursement rates for child care, the Legislature should strive to use the most accurate data possible. It appears that the new methodology may offer some distinct advantages over the previous survey approach. We recommend that the Legislature request a complete report on the new RMR survey methodology at hearings. While we support the new methodology in concept, we believe it requires substantial review because it is likely to significantly affect reimbursement rates providers receive in the budget year.

PANELISTS:

Patty Siegal
California Resource and Referral Network

Tim Fitzharris
Child Development Policy Institute

STAFF COMMENT:

The new methodology might yield a better rate structure than the current system. However, the Alternative Payment Providers will have to implement this new system while also implementing the recommendations of the error rate study.

ISSUE #9: IN-AND-OUT OF MARKET RATE SETTING IMPLEMENTATION

The Governor's Budget assumes savings from the implementation of regulations to determine the level of provider payments.

BACKGROUND:

The Governor's Budget proposes to implement the in-and-out of market provisions in the budget year saving $8.2 million.

SB 1104, the 2004 Human Services Trailer Bill, suspended regulations that would have based the rate child care providers serving only subsidized families, are paid to be the amount paid by an unsubsidized private paying family receiving care. If the child care provider did not serve private paying families the regulations would arbitrarily pick five providers in the area to ascertain their rates for private pay families. The regulations that were suspended would enforce current law which requires that the State not pay more for child care services for subsidized families than what is paid by private pay or unsubsidized families for the same service.

LAO ANALYSIS:

From the *Analysis* of the FY 2005-2006 Budget:

Statute requires the State to provide reimbursement rates for voucher programs that do not exceed the local market rates for a provider's community. Also, providers cannot charge the state more than they charge a private paying customer. For providers that serve no private pay customers, it is difficult for the state to determine an appropriate reimbursement rate level. Under current practice, the state reimburses providers without private pay customers at the RMR's maximum rate. This approach likely overpays many providers, especially family child care home providers, and creates negative incentives to serve private pay customers. Because of these factors, statute directed CDE to develop regulations to determine an alternative reimbursement approach. The State Board of Education adopted regulations for the 2003-04 fiscal year. These regulations, commonly referred to as the Pick-Five regulations, determine the rate for a provider with no private pay customers based on the rates charged by five randomly selected providers in the same or comparable zip codes that have private pay customers. Nevertheless, the Legislature enacted legislation to suspend implementation of these regulations. We believe, however, that the regulations have merit in creating rates for providers without private pay clients. Below, we explain the rationale for the regulations.

There are some communities where it would be difficult for providers to find private paying customers. At the same time, there are many communities where providers could enroll private pay customers, but choose not to because the state will reimburse them at higher-than-market rates if they do not serve private pay customers. This practice appears common in the family child care home environment. Under these circumstances, the state is providing a reimbursement rate that exceeds local market rates.

While the Pick-Five regulations do not provide a perfect estimate of the local market costs, they do provide a reasonable proxy. LAO believes that the Pick-Five system is an improvement on current practice because it does not overpay providers and eliminates the incentive to discourage private pay customers. Accordingly, we recommend that the Legislature permit the existing suspension to expire on June 30, 2005, thus allowing the Pick-Five regulations to be implemented in the budget year. The DOF estimates that these regulations would save $8.2 million annually.

POLICY PROBLEM MAY NOT EXIST:

Data received from Alternative Payment Programs suggests that the overwhelming majority of child care facilities have only a small percentage of their slots filled by children receiving vouchers. As such, these facilities have an interest in charging a competitive rate to the private paying market rather than trying to fix their rate to increase their maximum subsidy amount.

Alternative Payment Provider	Average Number of Subsided Children in Licensed Center	Average Number of Subsided Children in Family Child Care Center	Average Number of Subsided Children in Licensed-Exempt Facility
Sacramento	10	3	2
Yolo	6.5	3	2
Alameda--Child Care Links	3	2	2
Alameda--Bananas	2	2	2
Contra Costa	2	0.5	2

Feedback from these providers suggests that the State could link the existing child care rate to the private market rate in a more streamlined and efficient manner.

PROPOSED REGULATIONS ARE CUMBERSOME:

The implementation of a provision of the law regarding vacation pay may provide some evidence of the outcome of the State implementing the proposed regulations, as written. In December 2004, one Alternative Payment Program issued a form that child care providers were asked to have their private paying families at child care facilities receiving a voucher to complete. The form required the unsubsidized family to certify the rate they paid for their children's care during vacation days "under penalty of perjury" so that the Alternative Payment Provider could determine whether to pay for the subsidized families using vouchers for holiday vacation days.

Incidents such as this one illustrate the intrusive and cumbersome process that would be implemented if the proposed regulations were adopted. The system would rely heavily on private paying families that receive no benefit from the subsidized system, providing information.

REGULATIONS DON'T MATCH CURRENT LAW:

The proposed CDE regulations only partially implement the Education Code Sections regarding the reimbursement of child care vouchers. Statute requires the use of a 75-25 test, where no more than 75 percent of the slots at any given child care center can be filled with vouchered children. The proposed statute does not implement this provision. In addition, the regulations contain a provisions to "pick five" providers at the same zip code to determine a rate when a provider does not serve a private paying family, which is not provided for in the statute.

PANELISTS:

Tina Barna
Choices for Children

Lynn Patten
Child Action

Nancy Strohl
Child Care Law Center

STAFF COMMENT:

The Legislature has twice suspended the proposed regulations.

Given that recent findings from a CDE Error Rate of Alternative Payment Programs suggests that these programs have significant programmatic problems to address, the Subcommittee may wish to consider whether the additional workload generated by the proposed regulations is enough of a priority to warrant diverting AP resources from improving the administration of the program.

The LAO points out in their analysis that the new RMR methodology may make it easier for Alternative Payment Programs to administer.

STAFF ALTERNATIVE PROPOSAL:

Staff is working with child care advocates and administrators on an alternative proposal to determine the voucher reimbursement rate. The proposal would meet the following goals:

- Sets voucher rate according to the private market.
- Makes regulations and statute consistent.
- Develops a system for Alternative Payment Providers to verify voucher reimbursement rates.
- Protects the privacy rights of private paying families.
- Strives for streamlined and simple mechanisms for child care providers and AP programs to verify private paying rates.

Over the next several weeks, staff will hold meetings with CDE, DOF, DSS, and LAO to present an alternative proposal for this item in hopes to achieving a consensus solution regarding this issue.

ISSUE #10: CALWORKS STAGE 3 CHILD CARE AND WAITING LIST CHANGES

The Governor's Budget includes a proposal to change the nature of CalWORKs Stage 3 child care.

BACKGROUND:

The Governor's Budget proposes a two-step process to impose a time limit on CalWORKs Stage 3 Child Care. Currently, families receive Stage 3 child care after the county has found their child care situation to be "stable" and have received an entitled two years of CalWORKs Stage 2 child care. The State has provided funding each year for families to receive services in Stage 3, in effect allowing families to remain continuously eligible for child care until their children age out of the system or the family income exceeds child care eligibility limits.

The first step in the proposal would transfer all existing Stage 3 cases to the Alternative Payment Program, which is a means tested child care voucher program for working parents. Thus, the Governor's budget increases the Alternative Payment Program budget by $248.6 million to reflect the transfer of these cases. Unlike CalWORKs child care programs, there are a fixed number of slots in the Alternative Payment Program that are allocated to families based upon income and other factors of need. Throughout the State, the number of families eligible for the Alternative Payment Program exceeds that of the number of slots available in the program, creating waiting lists.

Beginning in 2005-2006 the Budget proposes that families who are off cash aid but still in either Stage 1 or Stage 2 CalWORKs child care will be allowed to remain in these programs for up to two years from the date they left cash aid, and will immediately put their name on a waiting list and be allowed to access services in the general AP program as slots become available. At the end of the two years, they will move to Stage 3, where they will have a maximum of two additional years before their CalWORKs child care entitlement expires, thus enabling them enough time to hopefully obtain a slot in the general AP program. The budget also proposes to change the waiting list process for the Alternative Payment Program so that families who are still receiving cash aid will continue to receive subsidized child care until they leave aid, their names will be added to the waiting list concurrently with earned income while on aid, and they will be assured a maximum of three additional years of CalWORKs child care after they leave cash aid to allow them time to access a slot in the general AP program

LAO RECOMMENDATION:

From the *Analysis*:

We believe there is considerable merit to the Governor's proposed changes to subsidized child care for CalWORKs families. Shifting CalWORKs Stage 3 child care to AP child care and creating centralized two-tiered waiting lists will allow more equitable access to subsidized child care for all families with very low incomes, whether they have participated in the CalWORKs program or not. However, in transitioning to this new system and essentially dismantling Stage 3 child care, it is important that current CalWORKs families not be disadvantaged. Accordingly, we recommend delaying the shift from Stage 3 to AP child care by six months, thereby allowing enough time for counties to develop centralized waiting lists that include CalWORKs families within that six-month period. Once a county has a functioning waiting list, it can then shift its child care program.

PANELISTS:

Stacy Miller
CCRC

Debra Smith

Tim Fitzharris
Child Development Policy Institute

Cliff Marcussen
Options

Amy Lee

Cheri Varner

Celestia Brown

Eva Sanchez Nunez

Maritza Flores

Patty Siegal
California Resource and Referral Network

STAFF COMMENT:

The Legislature has rejected previous efforts to limit Stage 3 child care benefits. Some studies suggest that maintaining the continued eligibility for child care is an essential support that allows Stage 3 families to continue to work and to remain off of welfare. Eliminating Stage 3 Child Care for some families could result in some families returning to welfare, which undermines the goal of the program.

The DOF believes that the attrition rate in the program should create enough slots to accommodate families on CalWORKs Stage 1 and 2. However, under the proposal there is no guarantee that these families will continue to receive care if the attrition rate changes or if there is less attrition in their part of the State.

The overall caseload trends in the CalWORKs program would ultimately determine whether Stage 3 families could continue care. In recent years, the CalWORKs child care caseload had declined, which would suggest that this proposal would yield more child care slots for non-CalWORKs families without impacting current Stage 3 families. For example, if this proposal had been adopted last year, there would more than 8,000 additional Alternative Payment slots available this year for working poor families and most likely all CalWORKs Stage 3 individuals would have received an AP slot. However, the caseload trends have shifted and this will likely not be true in future years. The enhanced work requirements contained in SB 1104 are expected to increase the demand for Stage 1 CalWORKs child care by close to 30,000 slots this year. As these families move through the system, the demand for Stage 3 child care may be greater than the current number of slots set aside in this proposal, thus creating a shortage of slots for families in future years.

It is also difficult to determine how CalWORKs families would compare to non-CalWORKs families placed upon the new waiting lists. However, after the implementation of the Centralized Eligibility Lists the State would resolve this uncertainty. The Subcommittee may not wish to consider action until these lists have been completed across the State and an analysis of the income levels of non-CalWORKs families on these lists are available.

ISSUE #11: INCOME ELIGIBILITY LEVELS FOR SUBSIDIZED CHILD CARE

The Governor's Budget includes a proposal to change adjustments to income eligibility for child care to an index based upon the Federal Poverty Level.

BACKGROUND:

Families are currently eligible for subsidized child care services if their income is at or below 75 percent of the State Median Income (SMI), as adjusted for family size. The Governor's Budget proposes, beginning in 2005-06, income eligibility for child care programs also will be based upon the Federal Poverty Level (FPL).

The DOF believes that this change will provide greater consistency between California's child care programs and other State and national health and human services programs. According to DOF, statutory provisions are included in this proposal to ensure that no family currently receiving subsidized child care will lose its eligibility under this proposal.

STATE HAS NOT INCREASED ELIGIBLITY RATE SINCE 2000:

The state has not adjusted the SMI for subsidized child care since September 2000, when it was set at $3,900 per month ($46,800 per year) for a family of three based on 1998 California income data. The child care income eligibility limit reflected in the Family Fee Schedule was frozen administratively in 2001-02 and 2002-03 and through the state budgets in 2003-04 and 2004-05.

The SMI for all California families increased at an annual average rate of 4.2 percent between 1999 and 2002, according to DOF. If the SMI for subsidized child care for a family of three had increased at the same rate as the statewide SMI, it would have risen from $3,900 per month in 2000-01 to $4,599 per month in 2004-05 (17.9 percent). Accordingly, the income eligibility limit for subsidized child care (75 percent of SMI) for a family of three would have increased from $2,925 per month in 2000-01 to $3,449 per month in 2004-05.

Families whom are receiving subsidized child care and development services lose eligibility at a lower income level than they would if the SMI for subsidized child care had been annually adjusted. More low-income families pay fees for subsidized child care and development services. Currently, a family of three begins to pay fees when its monthly income reaches $1,950 (50 percent of SMI), or 145.4 percent of the FPL in 2005. However, a family of three would not begin paying fees in 2004-05 until its income reached $2,299 per month – 171.5 percent of the FPL – if the SMI for subsidized child care had increased at the same rate as the statewide SMI.

PANELISTS:

Ed Bolen
Child Care Law Center

STAFF COMMENT:

The Subcommittee must consider two issues: 1) how to account for the lack of adjustment to the income eligibility level over the last five years and 2) how should future increases be indexed.

The proposed change to the indexing would expand eligibility for families, but at a slower rate than the current indexing requirement. However, the current indexing model has been suspended, so maximum income level is not changing over time at all.

The Subcommittee could consider other indexes as alternatives to the Federal Poverty Level. For example, the federal government calculates a different version of the SMI than the LIHEAP program does for eligibility purposes.

ISSUE #12: CENTRALIZED ELIGIBILITY LISTS

The Governor's Budget includes funding for Centralized Eligibility Lists for child care.

BACKGROUND:

Currently, the subsidized child care system lacks the funding to serve all eligible children, so waiting lists are created for families that cannot readily receive subsidies. Because there are multiple lists across the State, families often place their name on more than one list. To alleviate this situation, the Governor's Budget proposes to require each county to develop a Centralized Eligibility List (CELs). These lists would be split into two different levels, one level listing families earning under a certain amount, served on a first come, first serve basis; and the other level listing families earning over that amount and served only after all the families on the first level have received funding. From this later list, families would be served on a lowest income first basis.

The Budget includes $7.9 million to establish these lists in the budget year. The Alternative Payment Providers would administer the lists; but counties that have already had an established CEL could continue to use the agency that currently operates the CEL (like a Child Care Local Planning Council).

PANELISTS:

Denyne Kowalewski
CAPPA

Kimberley Johnson
Solano County Child Care Planning Council

Laura Ivans
City of Davis

Debbie Macdonald
YMCA of San Diego

Patty Siegal
California Resource and Referral Network

STAFF COMMENT:

Once the CELs are implemented, the State will have a much clearer picture of the demand and capacity for child care across the State.

ISSUE #13: CHILD CARE FOR 11 AND 12 YEAR OLDS

The Governor's Budget includes an additional Trailer Bill provisions to move 11 and 12 year olds from child care placements to afterschool programs.

BACKGROUND:

The Governor's Budget proposes to change the certification process so that parents of 11 and 12 year olds that receive subsidized child care must certify that afterschool programs do not meet their needs in order to continue receiving subsidized child care. The DOF estimates that this change in certification process will result in an additional $23.8 million in savings in the budget year.

SB 1104, the 2004-05 Human Services Trailer Bill, designated afterschool programs as the "preferred placement" for children aged 11-12. Funding was provided in the budget to expand afterschool program slots for 11 and 12 year old children currently receiving subsidized child care. Parents could then certify that afterschool programs met their child care needs and then use afterschool programs in place of all or part of their subsidized care. As a result the fiscal year 2004-05 budget reflected savings to these programs, which was held back at the State level pending the actual utilization of afterschool programs by this targeted group.

PANELISTS:

Tina Barna
Choices for Children
Andrea Scheib

Ed Bolen
Child Care Law Center

STAFF COMMENT:

The current year budget included "set-aside" funding that represented savings from 11 and 12 year olds currently receiving afterschool services. Their care in afterschool program slots was created with federal 21st Century afterschool funding. CDE reports that it is not been able to expend much of the federal funding designated for this expansion, thus it is unlikely that the capacity was increased enough to allow the savings assumed in the budget to be achieved. The additional savings assumed in the Governor's Budget may thus be unachievable given the current afterschool capacity.

Unlike other programs reviewed by Subcommittee 1, if child care programs are reduced more than actual savings, there is no mechanism for these programs to have the overstated savings restored after the fiscal year begins. Thus, the proposed savings that is assumed from the movement of children to afterschool programs could actually cause an unallocated cut to the programs instead.

ISSUE #14: WAIT LIST PROCESS FOR "AT RISK" CHILDREN

The Subcommittee will discuss changes to the waiting list for "at risk children"

BACKGROUND:

SB 1104, last year's Human Services Trailer Bill changed the wait list process for children "at-risk". Prior to SB 1104, a family eligible for subsidized child care and development services because a child was at risk of abuse, neglect, or exploitation, and referred from a legally qualified professional in a legal, medical, or social services agency, or an emergency shelter, could receive subsidized child care and development services for up to six months. Before the end of the six-month period, a new at risk referral could be obtained and child care and development services could continue.

SB 1104 changes the eligibility time period. A family eligible for child care and development services because a child is at risk can now receive child care and development services for **up to three months.** A second referral from a legally qualified professional in a legal, medical, or social service agency or an emergency shelter **will not** extend child care and development services beyond three months.

SB 1104 authorizes a family to receive child care and development services for **up to 12 months** if a county welfare department, child welfare services worker certifies that the child is receiving protective services and the family requires care for the child. The 12-month time limit can be extended for the child if the child welfare services worker issues another referral authorizing child care and development services.

Previously, families who were receiving state funded child care and development services on the basis of a child being at risk or a CPS child were not required to pay a family fee. Families receiving child care and development services funded with federal dollars for at risk and CPS children could have the fee waived based on the recommendation of the county welfare department, child welfare services worker or the individual making the referral.

SB 1104 requires that all families be subject to the fee schedule with the following exemptions:

- Families with at risk children may be exempt from paying fees if determined by the legally qualified professional in a legal, medical, or social services agency or emergency shelter to be necessary.

- CPS families may be exempt from paying a fee for up to 12 months if determined to be necessary by the county welfare department, child welfare services worker.

The combined time period for the fee exemption cannot exceed 12 months.

PANELIST:

Arlyce Currie
Bananas

ISSUE #15: STATE ALLOCATION OF QUALITY SET-ASIDE FUNDING

BACKGROUND:

In 2004-2005, the federal government will provide California $516.2 million Child Care and Development Fund (CCDF) in the current year. This program, authorized as part of the federal welfare reform package of 1996, assists low-income families, families receiving temporary public assistance, and those transitioning from public assistance in obtaining child care so they can work or attend training/education.

A minimum of four percent of CCDF funds must be used to improve the quality of child care and offer additional services to parents, such as resource and referral counseling regarding the selection of appropriate child care providers to meet their child's needs. To improve the health and safety of available child care, many States have provided training, grants and loans to providers, improved monitoring, compensation projects, and other innovative programs.

California must submit a CCDF plan to the federal government that details how all CCDF funding will be used in the Budget Year. Funding for the quality-set aside funding must be included in that plan. The federal government requires the State to coordinate the provision of services with other Federal, State, and local child care and early childhood development programs and hold at least one public hearing on the proposed plan.

PANELIST:

Tim Fitzharris
Child Development Policy Institute

ISSUE #16: SPECIAL NEEDS FUNDING

One-time funding for Special Needs will expire in the budget year.

BACKGROUND:

The Americans with Disabilities Act (ADA) requires child care providers to serve children with disabilities but most child care providers lack the knowledge and skills to identify such children and properly care for them. Parents of children with special needs have trouble finding proper care for their children and do not understand their right to accessible child care.

In 2000, SB 1703 (Escutia) provided one-time funding to promote the inclusion of children with disabilities in child care programs by helping child care and development providers identify such children and care for them but funding ended in some counties in June 2004 and will end statewide by June 2005.

Less than 1/3 of licensed child care providers were trained under SB 1703 and new providers are licensed every month. The number of families with children with special needs is increasing and those who find themselves requiring some form of child care services are growing.

PANELIST:

Dwayne Dennis
Pathways

STAFF COMMENT:

A bill, SB 640 (Escutia), would draw on federal funds to provide $5 million in continued funding for programs created by SB 1703 (Escutia-2000).

ISSUE #17: PUBLIC COMMENT