



# CHILD CARE LAW CENTER

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## California Child Care Budget Update April 20, 2010

### INTRODUCTION

We join our fellow Californians in calling for a Family Economic Recovery Budget. In tough economic times it is even more critical to support low income working families so parents can work or prepare for work while their children are in nurturing early care and education programs. Today's babies, toddlers and preschoolers can't wait. We owe our children and grandchildren the creation of an equitable future where regardless of the circumstances from which you start, you can develop to your full potential. Families are key to raising children, but—beginning when a child is born—government and communities must also provide support, including access to quality child care and early education.

As the powerful Legislative Hearings on impacts have demonstrated, the budget must be taken as a whole. The Governor's proposals include deep cuts to a number of vital education, social service and other safety net programs. Multiple cuts are proposed that target the same children, families and low income Californians over and over again. It is critical policymakers consider revenue options and budget reform as we debate the current budget.

This analysis focuses on early care and education programs for low income children and families. We do not include all child care proposals made by the Governors and Legislative Analyst's Office, focusing on those where we have particular expertise. The Governor recommends budget reductions of \$316 million and the LAO recommends reductions of \$217 million for the 2010-2011 budget year.<sup>i</sup> Our subsidized child care system, under-funded and with a fragile infrastructure, already has an estimated 195,000 children not receiving the care for which they are eligible<sup>ii</sup> and the current cuts are further compounded by actions taken last year. The 2009-10 Budget reduced spending for child care by approximately 3% from the amount needed to fund at the 2008-09 level. The reductions resulted primarily from elimination of the Extended Day/Latch Key program and from significant changes in policy and funding of Stage 1 child care.<sup>iii</sup>

### KEY BUDGET ISSUES

- *Stage 1 Child Care – What is the impact of 2009-2010 cuts and how should that impact 2010-2011 decisions*

Stage 1 of CalWORKs child care is an entitlement for families in a welfare-to-work activity as they enter the CalWORKs program. Stage 1 child care subsidies were designed to be a bridge to Stage 2 as families stabilize. Although time in Stage 1 varies among counties and individual families, recipients may continue to receive a Stage 1 child care subsidy for up to two years after they stop receiving CalWORKs cash assistance.<sup>iv</sup> Families who are income eligible for CalWORKs cash assistance are automatically eligible for Stage 1 child care if they participate in a welfare-to-work activity or are working.<sup>v</sup>

Stage 1 was reduced from \$616 million in 2008-09 to \$547 million in the revised 2009-2010 budget.<sup>vi</sup> The 2009-2010 reduction was accompanied by a change in exemption policies through June 2011. The exemption states that a parent who has primary responsibility for personally providing care to one child from birth up to 24 months old may be exempt from welfare to work (WTW) activities though they may still volunteer. Exempt parents who volunteer are eligible for child care services. A parent with two or more children under the age of six may also be exempt from WTW activities. While we support parental choice including support for parents to stay home with young children, we have serious questions about the protections for families that accompanied the cuts to Stage 1 child care last year.

According to the Assembly Budget Committee the Governor proposes further reducing Stage 1 childcare funds in 2010-2011 by 18.8%. California Welfare Directors report this is “due to the shift of \$46.7 million for the Employment Services Ramp-Up for the 2011 CalWORKs changes and the \$54.8 million reduction due to the Regional Market Rate ceilings reduction.”<sup>vii</sup> The Governor proposes total funding of \$444 million, a \$103.0 million decrease from the current year<sup>viii</sup> and a \$172 million reduction from 2008-09.

The two years of reductions for Stage 1 funding come at the same time as the number of families in the CalWORKs program is increasing. According to the California Budget Project (CBP) “The number of families receiving cash assistance through the California Work Opportunity and Responsibility to Kids (CalWORKs) Program increased by 18.8 percent (86,524) between October 2007 and October 2009, marking the first substantial rise in caseload since the enactment of federal and state welfare reform.”<sup>ix</sup> Given current economic conditions this is not likely to change. The CBP reports further “more than one out of five working-age Californians (21.4 percent) were either unemployed or underemployed in December 2009”<sup>x</sup>.

When setting budget numbers for 2010-2011 we must understand the impacts of changes made in 2009-2010. Families must have access to child care to participate successfully on the CalWORKs welfare to work program. If caseloads are growing, projected savings are not being realized, or cuts are producing unintended consequences for vulnerable families and children, previous actions must be reconsidered. Previous cuts are being compounded this year with both proposed reimbursement rate decreases discussed below and the shift of funds from child care to implementation costs for the CalWORKs “reforms” in 2011.

MAY REVISE QUESTIONS: When the Governor’s releases the May Revise mid May, the Legislature should ask for clear reports on the assumptions underlying the projections for Stage 1 and the impacts of last years cuts and policy changes. CCLC remains concerned about a number of issues:

- What assumptions were utilized in determining Stage 1 caseloads and child care uptake by Stage 1 families?
- How will these cuts impact employment of eligible families and child care providers?
- What is the actual experience of families and counties implementing last year’s cuts and policy changes?

- Through 2009-10, according to CWDA, counties are funded about \$1 billion below what is needed to cover the actual cost to deliver human services<sup>xi</sup>, how can the counties absorb the variety of cuts and still provide mandated services?

- ***Stage 2 and 3 Child Care Workload Adjustments***

Workload adjustments reflect growing costs and projected caseload for programs. The Workload Budget is developed and then further adjustments are made in the Governor's proposed budget to reflect new fiscal and budget proposals. The Governor's workload budget reflects "a decrease of \$13.8 million to reflect revised estimates in the caseload driven Stage 2 (\$12.6 million) and Stage 3 programs (\$1.2 million).<sup>xii</sup> We are concerned that the reductions in Stage 1 caseload detailed above and Stage 1 implementation challenges may artificially lower Stage 1 participation and lead to lower Stage 2 and 3 projections. The reasons for the workload adjustment are not outlined by the Governor. Given the stagnant economy, high unemployment, and increasing CalWORKs caseload we have questions about the assumptions.

MAY REVISE QUESTIONS

- The Legislature should ask for clear reports on the assumptions underlying the projections for Stage 2 and Stage 3 and the relation of last year's cuts and policy changes to Stage 1.
- What assumptions were utilized in determining Stage 2 and 3 caseloads and child care uptake by families?

- ***Stage 3 Child Care Reductions***

The bipartisan agreement crafted when the state instituted the CalWORKs program in 1997 guaranteed that families who successfully transition off cash aid continue to be eligible for child care assistance until their income reaches 75 percent of State Median Income (SMI). Families pay gradually increasing fees until their income is sufficient to move them out of the subsidy system entirely. California can be very proud that we have kept the promise to CalWORKs families to provide support for child care as families move toward self-sufficiency.

In addition to the workload adjustment discussed above and the reimbursement rate changes discussed below, the Governor proposes to cut Stage 3 child care by one-third or \$123 million eliminating about 18,000 children or one-third of all Stage 3 slots. "The Administration estimates that 11,000 slots would be reduced through attrition and 7,000 children would be disenrolled."<sup>xiii</sup> The Governor's reference to attrition is highly misleading. After families are off cash aid for 24 months they are no longer eligible for Stage 1 or 2 and transition to Stage 3. At reduced funding levels these families would transition instead to a Centralized Eligibility List (CEL) with little hope of obtaining a subsidy. Inability to transition to Stage 3 would lead to disruption for children and to parents' ability to work or prepare for work. As Donita Stromgren testified April 14, the entry point for families actually receiving access to child care from the CEL is around 30% SMI.

The LAO has introduced an alternate proposal. They recommend reducing the eligibility ceiling for Stage 3 child care from 75% SMI to 60% SMI. They make a related recommendation to lower the eligibility ceiling for nonCalworks programs to 60% SMI. The LAO proposes to redirect a portion of the savings to expand access for the neediest families. However the largest portion of the reduction results in a cut to investment in early care and education. They estimate that the proposal would displace 4,000 families currently receiving Stage 3 child care and 14,000 children in nonCalworks programs. They would redirect savings so that 5,000-6,000 lower income families would be served and the state would save \$60 million.<sup>xiv</sup>

Sixty percent of the SMI is approximately \$3,350 for a family of four.<sup>xv</sup> Families with subsidies pay increasing family fees as their incomes rise. A family pays approximately \$11.70 per day (about \$250/month) for a full time slot as their portion of the child care expense at that income. If the ceiling is changed these families would be required to pay the full cost of child care. As of October 2006 CDE reports the average monthly cost of fulltime child care in a Child Care Center in Sacramento County is \$829 for a child birth to 24 months, \$561 for a child two to five and \$452 for a school age child. The average cost in Sacramento for a licensed family child care home is \$570 for a child birth to 24 months, \$528 for a child two to five and \$457 for a school age child. If a family has an infant and four year old the average cost of a licensed family child care home would be \$1098 or one third of their monthly income.<sup>xvi</sup>

Parents in Stage 3 provided powerful testimony at the April 13 Assembly Budget hearing on the impact of the proposed cuts and changes to eligibility ceilings. Families recounted how Stage 3 was supporting their ability to work and how their children were thriving. An abrupt cut would mean many would have to choose either to face immediate job loss and then protracted unemployment and even homelessness or risk leaving children in unsafe situations, including care of infants by other siblings.

While on the face it may seem “fair” to redirect child care funds to those with the lowest incomes this approach has been considered in the past and rejected for a number of reasons.

- First, while we all share a commitment to funding child care for all the eligible families on the Centralized Eligibility List- the question is how we should pay for the increased investment. This proposal requires other low income families struggling to remain off cash aid to bear the financial burden by losing their subsidies. Ironically low income families lose child care as business tax cuts enacted as part of the September 2008 and February 2009 budget agreements will cost the state \$8.7 billion in lost revenues between 2008-09 and 2015-16.<sup>xvii</sup>
- Second, these families already contribute to the child care system paying increasingly steep family fees. The nationwide average amount in 2008 for child care among families who pay for child care (including those who receive child care assistance and those who do not) is 6.4 percent of income.<sup>xviii</sup> As noted above many of these families already pay a significantly higher portion of their income for fees.
- Third, the eligibility ceiling is based on bipartisan design of the CalWORKs program and policies in place since 1997. We invest in the families struggling toward self sufficiency. These families are our success stories- they have maintained employment and risen above the poverty level- destabilizing these families in tough economic times will have negative impacts on the children and our communities. The savings are not justified by the human cost.

In addition to the impacts on families and children, the cuts and “redirection” could further weaken our fragile network of high quality centers. Nancy Remley of CDE testified at the April 13 Assembly Budget Hearing that this policy would have the greatest impact on child care centers. A disproportionate number of families in the 60-75% of SMI have their children in centers. The reasons for this are beyond the scope of this analysis but have been consistent since the advent of CalWORKs.

#### MAY REVISE QUESTIONS

- How many Stage 2 families are projected to transition to Stage 3 this year?
  - What will the impacts be on children and parents who lose their subsidy under the governor and LAO proposals?
  - How will this loss of investment impact child care providers?
  - How would this reduction impact our supply of child care centers?
  - How will these cuts impact employment of eligible families and child care providers?
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- ***Reductions to Reimbursement Rates for Licensed Child Care Providers***

The Governor proposes to lower the ceiling on rates that can be paid to child care providers serving families receiving subsidies by reducing the Regional Market Rate (RMR) cap from the 85<sup>th</sup> percentile to the 75<sup>th</sup> percentile and to reduce the reimbursement rate limits for licensed exempt child care providers from 90 percent of the ceiling for licensed providers to 70 percent. This results in a cut of \$77.1 million.<sup>xix</sup> The Governor also proposes to continue using the RMR survey conducted in 2005. This means that RMR rates are actually not at the 85th percentile as they are based on a survey 5 years old. At the April 14 Assembly Budget Hearing, the LAO indicated that the current ceiling was probably closer to the 60<sup>th</sup> percentile.

The LAO recommends “the Legislature use the 2009 RMR survey and set licensed provider reimbursement ceilings at whatever level is roughly comparable to current-law rates.”<sup>xx</sup> We strongly disagree with setting permanent eligibility ceiling policy based on budget calculations rather than policy considerations. As Dion Aroner testified April 14, such cuts are seldom revisited. The ceilings are designed to ensure that low income families on subsidy have access to the same child care programs as more affluent families. This is a basic equity issue. The LAO proposal based on budget calculations makes no reference to the underlying policy considerations.

We also disagree with the LAO assertion that lower rates can be made up by increased family copayments.<sup>xxi</sup> These copayments, when the provider rate is higher than the subsidy ceiling, are in addition to the mandatory family fee. We know that some providers simply absorb the difference, even though their rates are already depressed. For those families who would be required to make higher copayments, it is possible they could no longer afford their providers. This is a backhanded way to raise family fees, which requires a serious policy discussion.

The Regional Market Rate (RMR) is used to reimburse providers who serve both CalWORKs families and other low income working families eligible for child care vouchers. If the RMR cap is permanently lowered this will lead to reduced access to a wide range of providers for families in

the subsidy system and may significantly reduce the income of many of these small child care business owners. We concur with the many providers and other advocates who testified April 14<sup>th</sup> that no permanent reductions should be made in the ceiling. It is not necessary to make permanent policy changes to achieve one year savings.

#### MAY REVISE QUESTIONS

- How will rate reductions impact the number of licensed family child care providers who accept families with subsidies?
- What steps should be taken to ensure the 2011 RMR Survey is representative of distinct community needs and more appropriately reflects appropriate demographic factors?
- How will these cuts impact employment of eligible families and child care providers?
  
- ***Reductions to Reimbursement Rates for License-Exempt Child Care Providers***

Federal law ensures that families receiving subsidies have a right to choose the type of child care they believe is best for their children. In California since the advent of CalWORKs this has included care that is exempt from licensing requirements. We use the term “license-exempt” child care because it clarifies that *licensing* standards do not apply to these child care providers. However, license-exempt providers who are paid with child care subsidies may have to meet other state requirements. Unless the provider qualifies for an exemption as a grandparent, aunt or uncle, he or she will be required to register with TrustLine and to complete a Health and Safety Self-Certification.

As noted above the Governor proposes to reduce the reimbursement ceiling for license-exempt providers from 90 percent of the ceiling for licensed providers to 70 percent. This is compounded by the proposal to reduce the ceiling for licensed providers from the 85<sup>th</sup> percentile to the 75<sup>th</sup> percentile. The LAO agrees with this recommendation stating, “These providers have lower overhead costs and might be of lower quality (having not met licensing requirements).”<sup>xxxii</sup>

The Administration as well as the LAO relies on the argument that the costs for license-exempt providers are lower. However this was only an assertion, we have not seen supporting data about the cost structure of providing care by licensed and license-exempt providers. What are the exact cost differences? While we agree that licensed providers do have costs associated with licensure, we have concerns based on anecdotal evidence the costs of providing care incurred by both licensed and license-exempt providers are not covered by the current rates.

This proposal has three critical problems. First, it undermines the guarantee that parents will be able to choose the type of care that is best-suited to their and their children’s needs; second, it will have a significant negative impact on the most vulnerable families; and third, it is inequitable and may reduce the involvement of the most appropriate license-exempt caregivers.

#### Parental Choice

Many types of child care in California must be licensed, but some types are exempt from licensure requirements. For example, child care for a relative, or for one family (other than the provider’s own children) are exempt from licensure. Federal law requires that families

using voucher-based child care subsidy programs (including CalWORKs child care) have a right to parental choice of the type of child care provider they believe is best for their children, including center-based care, family child care, and license-exempt child care.

#### Impact on Vulnerable Families

This proposal will have a significant negative impact on those families most likely to choose license-exempt care. Accessibility is a major issue; it is not clear how many parents who have access to real alternatives choose license-exempt care. But there are many families who choose license-exempt care for a variety of reasons: families with infants or children with special needs; families living in geographically isolated areas, whether rural or urban, where there are few if any licensed care providers; families working odd hours or rotating shifts; culturally and linguistically diverse families who are unfamiliar with the formal care system and rely on extended family networks for care of young children; and families new to CalWORKs assistance. Every family views child care differently, including the priority they place on access to culturally and linguistically appropriate child care, and the type of child care that will best prepare their children for school.

#### Inequity and Impact on License-Exempt Care

The proposal to significantly reduce rates for license-exempt providers undermines the possibility of a widespread improvement in quality. The most appropriate and highest quality caregiver selected by families may be the grandmother who cares for young family members, the reality is that these caregivers often forego other work opportunities or reduce their hours of out-of-home work in order to be able to supply child care within their families. They are able to do so only if they receive adequate reimbursement. If they are not able to afford to provide care, then the license-exempt workforce may become a setting for those adults who have no other work options, rather than those relatives and friends who are most closely connected to the child and the child's family.

#### MAY REVISE QUESTIONS

- What will be the impact of the reduced rate ceilings on complying with minimum wage laws?
- How many families use license-exempt care during odd hours, for infants, or in other situations where other options are not available?
- What impact will this have on families currently using license-exempt care?
- How will it impact the pool of people willing to provide license exempt care?
- How will efforts to improve the quality of license-exempt care be impacted?
- How will these cuts impact employment of eligible families and child care providers?

#### 2010 BUDGET TIMELINE

The Assembly Budget Subcommittee on Education Finance heard compelling testimony from parents, child care providers and advocates at their April 14<sup>th</sup> Hearing. The parents drew a picture of how their real children would be impacted by these proposals. Not only would they lose access to the settings where they thrive, but families face threat of job loss and homelessness. The Assembly took no action, but majority party members were clearly moved by the testimony and

several expressed very clear commitment to maintain early care and education investment. The Senate Budget Subcommittee on Education Finance will hear the proposals April 22.

The governor will release a revised budget proposal the “May Revise” by May 14, 2010. It could include all these proposals, some, or totally new proposals. The Legislature usually hears the revised proposals in the last two weeks of May. In a functioning budget environment, both Houses would then pass a budget and a Budget Conference Committee would reconcile the two versions, the Budget would pass both houses and be signed by the Governor (with line item vetoes). It is unclear how the process will unfold this year after initial May Revise Hearings conclude, but it is critical that we voice our support for a Family Recovery Budget.

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<sup>i</sup> Legislative Analyst Office Proposition 98 and k-12 Budget February 25, 2010 page 34 accessed at [www.lao.ca.gov](http://www.lao.ca.gov)  
<sup>ii</sup> California Department of Education *Status Report on the Implementation of County Centralized Eligibility Lists* November 2009

<sup>iii</sup> Assembly Budget Subcommittee on Education Finance Hearing Agenda April 13, 2010 page 5

<sup>iv</sup> California Education Code § 8351. Because county welfare departments have discretion in determining when a CalWORKs participant's welfare-to-work activity is stable, similarly-situated families are often in different Stages in different counties. See, e.g., <http://www.dss.cahwnet.gov/wtw/countyp1.html>, with county CalWORKs plans.

<sup>v</sup> California Education Code § 8351; California Welfare & Institutions Code §§ 11323.2(a)(1), 11325.23(d), 11322.9(f); California Department of Social Services Manual of Policies & Procedures § 47-220.2.

<sup>vi</sup> Assembly Budget Subcommittee on Education Finance Hearing Agenda April 13, 2010 page 5

<sup>vii</sup> CWDA Letter January 12, 2010 accessed at [www.cwda.org](http://www.cwda.org)

<sup>viii</sup> Assembly Budget Subcommittee on Education Finance Hearing Agenda April 13, 2010 page 5

<sup>ix</sup> California Budget Project *Budget Cuts Come at Time of Growing Need* February 2010 access at [www.cbp.org](http://www.cbp.org)

<sup>x</sup> Ibid

<sup>xi</sup> CWDA Letter January 12, 2010 accessed at [www.cwda.org](http://www.cwda.org)

<sup>xii</sup> Governor's Budget Summary 2010-2011 page 58

<sup>xiii</sup> Assembly Budget Subcommittee on Education Finance Hearing Agenda April 13, 2010 page 9

<sup>xiv</sup> ibid

<sup>xv</sup> Assembly Budget Subcommittee on Education Finance Hearing Agenda April 13, 2010 page 9

<sup>xvi</sup> California Department of Education Reimbursement Ceilings for Subsidized Child Care (Effective 10/01/2006) accessed at [www.cde.ca.gov](http://www.cde.ca.gov)

<sup>xvii</sup> California Budget Project *To have and Have Not* June 2009 accessed at [www.cbp.org](http://www.cbp.org)

<sup>xviii</sup> State Child Care Assistance Policies 2008, National Women's Law Center Karen Schulman and Helen Blank page 6 available at [www.nwlc.org](http://www.nwlc.org)

<sup>xix</sup> Governor's Budget Summary 2010-2011 page 60-61

<sup>xx</sup> Legislative Analyst Office Proposition 98 and k-12 Budget February 25, 2010 page 35-36 accessed at [www.lao.ca.gov](http://www.lao.ca.gov)

<sup>xxi</sup> ibid page 34

<sup>xxii</sup> ibid page 35