

AMENDED IN SENATE APRIL 13, 2021
AMENDED IN SENATE MARCH 17, 2021
AMENDED IN SENATE FEBRUARY 23, 2021

SENATE BILL

No. 246

**Introduced by Senator Leyva
(Coauthor: Senator Ochoa Bogh)**

January 22, 2021

An act to amend Sections 8266.1, 8357, and 8447 of, and to amend, repeal, and add Sections 8265 and 8265.5 of, the Education Code, relating to early childhood education.

LEGISLATIVE COUNSEL'S DIGEST

SB 246, as amended, Leyva. Early childhood education: reimbursement rates.

(1) The Child Care and Development Services Act establishes a system of childcare and development services for children up to 13 years of age. Existing law, until July 1, 2021, requires the Superintendent of Public Instruction to implement a plan establishing assigned reimbursement rates to be paid by the state to provider agencies for the provision of those services. Commencing July 1, 2021, existing law transfers specified childcare programs, responsibilities, services, and systems, including those programs and duties described below, from the State Department of Education and the Superintendent to the State Department of Social Services. Existing law requires the Superintendent to implement a plan that establishes reasonable standards and assigned reimbursement rates, which vary with the length of the program year and the hours of service. Existing law requires the reimbursement system to be submitted to the Joint Legislative Budget Committee.

This bill would require the State Department of Social Services to implement a reimbursement system plan that establishes reasonable standards and assigned reimbursement rates that would vary with additional factors, including a quality adjustment factor to address the cost of staffing ratios. By November 10, 2022, and annually thereafter, the bill would require the reimbursement system plan, including methodology and standards, to be submitted to the Joint Legislative Budget Committee. The bill would require that plan to include a formula for annually adjusting reimbursement rates. By July 1, 2022, and annually thereafter, the bill would require the department to establish a reimbursement rate target for each contracting agency that meets specific quality standards based on specified elements, including quality adjustment factors for the age range of children proposed to be served by the contracting agency. The bill would also require all providers meeting quality standards, as specified, to be paid the quality adjustment factor, as specified. ~~The~~

The bill would require the department, by January 1, 2024, to develop, or hire a contractor to develop, a modernized reimbursement formula based on the components outlined in the state’s Master Plan for Early Learning and Care, as specified. ~~The~~ The bill would also require the department, by January 1, 2024, to convene a working group to assess the existing quality standards for equity and accessibility to all provider types and settings, and would require the department to develop recommendations to be implemented with the new reimbursement base rate, as specified.

The bill would make ~~these~~ the above provisions subject to an appropriation by the Legislature.

(2) Existing law establishes adjustment factors for a provider agency’s reported child days of enrollment in order to reflect the additional expense of serving specified children, including an adjustment factor for infants and toddlers who are 0 to 36 months *of age* and are served in a child daycare center or family childcare home.

As of July 1, 2022, this bill would delete the above-described adjustment factor and would make conforming changes. The bill would add an adjustment factor for children who are served in a county experiencing a county state of emergency, *or any county during a statewide state of emergency, based on the enrollment of children in the program*, as specified.

(3) Existing law requires reimbursement rates to be adjusted by specified ~~adjustment~~ *reimbursement* factors for childcare and

development programs, and, for childcare and development providers serving children for less than 4 hours per day, requires the reimbursement factor to be 55% of the standard reimbursement rate.

This bill would instead require the above-described reimbursement factor to be 50% of the standard reimbursement rate. The bill would also require a crisis adjustment factor of 150% for childcare and development program providers serving children in a county experiencing a county state of emergency, or any county during a statewide state of ~~emergency~~: *emergency, based on the enrollment of children in the program.*

(4) Existing law requires the cost of childcare services to be governed by regional market rates, and requires the regional market rate ceilings to be established at the 75th percentile of the 2016 regional market *rate* survey for that region or the regional market rate ceiling that existed in that region on December 31, 2017, whichever is greater. Existing law prohibits reimbursement to license-exempt childcare providers from exceeding 70% of the family childcare home rate.

~~Subject to an appropriation by the Legislature, for the 2021 calendar year, this bill would, among other things, instead require the regional market rate ceilings to be established at the 75th percentile of the 2018 regional market survey for that region or the regional market rate ceiling that existed in that region on December 31, 2017, whichever is greater. Subject to an appropriation by the Legislature, commencing January 1, 2022, The bill would update the above formula to be based instead on the 2018 regional market rate survey. Subject to an appropriation by the Legislature, for the 2021 calendar year, and for the 2021–22 fiscal year, and annually thereafter, the bill would require the annual regional market ceilings to be established at no less than the 85th percentile of the 2018 regional market *rate* survey for that region or the regional market rate ceiling that existed in that region on December 31, 2017, whichever is greater. The bill would provide that if there is no appropriation, the existing ~~formula~~ *formula, as updated for 2018*, to establish a regional market rate ceiling would apply. Subject to an appropriation by the Legislature, commencing January 1, 2022, and annually thereafter, the bill instead would prohibit reimbursement to license-exempt childcare providers from exceeding 70% of the commensurate rate for both full-time and part-time care.~~

(5) The act requires the ~~department~~ *State Department of Education* to contract with local contracting agencies for alternative payment programs for services provided throughout the state. Existing law

requires alternative payment childcare systems to be subject to the rates established in the regional market rate survey of childcare providers for provider payments. Existing law requires the department to contract to conduct and complete a regional market rate survey no more than once every 2 years.

This bill would require the department to update the regional market rate survey methodology to include specified factors, including age ranges and hours of service.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8265 of the Education Code is amended
 2 to read:
 3 8265. (a) The State Department of Social Services shall
 4 implement a plan that establishes reasonable standards and assigned
 5 reimbursement rates, which vary with the length of the program
 6 year and the hours of service.
 7 (1) Parent fees shall be used to pay reasonable and necessary
 8 costs for providing additional services.
 9 (2) When establishing standards and assigned reimbursement
 10 rates, the Superintendent shall confer with applicant agencies.
 11 (3) The reimbursement system, including standards and rates,
 12 shall be submitted to the Joint Legislative Budget Committee.
 13 (4) The State Department of Social Services may establish any
 14 regulations the department deems advisable concerning conditions
 15 of service and hours of enrollment for children in the programs.
 16 (b) Commencing July 1, 2018, the standard reimbursement rate
 17 shall be eleven thousand nine hundred ninety-five dollars (\$11,995)
 18 and, commencing with the 2019–20 fiscal year, shall be increased
 19 by the cost-of-living adjustment granted by the Legislature annually
 20 pursuant to Section 42238.15. Commencing July 1, 2018, the
 21 full-day state preschool reimbursement rate shall be twelve
 22 thousand seventy dollars (\$12,070) and, commencing with the
 23 2019–20 fiscal year, shall be increased by the cost-of-living
 24 adjustment granted by the Legislature annually pursuant to Section
 25 42238.15.
 26 (c) The plan shall require agencies having an assigned
 27 reimbursement rate above the current year standard reimbursement

1 rate to reduce costs on an incremental basis to achieve the standard
2 reimbursement rate.

3 (d) (1) The plan shall provide for adjusting reimbursement on
4 a case-by-case basis, in order to maintain service levels for agencies
5 currently at a rate less than the standard reimbursement rate.
6 Assigned reimbursement rates shall be increased only on the basis
7 of one or more of the following:

8 (A) Loss of program resources from other sources.

9 (B) Need of an agency to pay the same childcare rates as those
10 prevailing in the local community.

11 (C) Increased costs directly attributable to new or different
12 regulations.

13 (D) Documented increased costs necessary to maintain the prior
14 year's level of service and ensure the continuation of threatened
15 programs.

16 (2) Childcare agencies funded at the lowest rates shall be given
17 first priority for increases.

18 (e) The plan shall provide for expansion of child development
19 programs at no more than the standard reimbursement rate for that
20 fiscal year.

21 (f) The State Department of Social Services may reduce the
22 percentage of reduction for a public agency that satisfies any of
23 the following:

24 (1) Serves more than 400 children.

25 (2) Has in effect a collective bargaining agreement.

26 (3) Has other extenuating circumstances that apply, as
27 determined by the department.

28 (g) Upon an appropriation in the annual Budget Act or another
29 act for the express purpose of implementing Section 8265 of the
30 Education Code, as added by Section 2 of the act that added this
31 subdivision, this section shall become inoperative and shall be
32 repealed January 1 of the following year.

33 SEC. 2. Section 8265 is added to the Education Code, to read:

34 8265. (a) The State Department of Social Services shall
35 implement a reimbursement system plan that establishes reasonable
36 standards and assigned reimbursement rates, which vary with the
37 regional reimbursement ceiling adopted pursuant to Section 8357,
38 a quality adjustment factor to address the cost of staffing ratios
39 pursuant to Section 8264.8, the length of the program year, the

1 hours of service, and any additional adjustment factors as described
2 under Section 8265.5.

3 (1) Parent fees shall be used to pay reasonable and necessary
4 costs for providing additional services.

5 (2) When establishing standards and assigned reimbursement
6 rates, the department shall confer with applicant agencies.

7 (3) By January 1, 2024, the department shall develop, or hire a
8 contractor to develop, a modernized reimbursement formula based
9 on the components outlined in the state’s Master Plan for Early
10 Learning and Care, including, but not limited to, adjustments for
11 market, program quality, child needs and characteristics, and state
12 of emergency declarations.

13 (4) *By January 1, 2024, the department shall convene a working*
14 *group to assess the existing quality standards (Subchapter 12*
15 *(commencing with Section 18270) of Chapter 19 of Division 1 of*
16 *Title 5 of the California Code of Regulations) for equity and*
17 *accessibility to all provider types and settings. The department*
18 *shall develop recommendations to be implemented with the new*
19 *reimbursement base rate. These changes shall be aligned with*
20 *appropriate competencies for early childhood workers, including,*
21 *but not limited to, experience, education, and environmental*
22 *settings, to be implemented in alignment with the new*
23 *reimbursement formula.*

24 ~~(4)~~

25 (5) By November 10, 2022, and annually thereafter, the
26 reimbursement system plan, including methodology, standards,
27 county rate targets as established by the department pursuant to
28 this section, and the total statewide funding amount necessary to
29 reach annual rate targets for all agencies shall be submitted to the
30 Joint Legislative Budget Committee.

31 ~~(5)~~

32 (6) The department may establish any regulations the department
33 deems advisable concerning conditions of service and hours of
34 enrollment for children in the programs.

35 (b) Commencing January 1, 2022, the State Department of
36 Social Services shall adopt an interim standard reimbursement rate
37 based on the 2018 regional market rate survey of eleven thousand
38 nine hundred ninety-five dollars (\$11,995) and, commencing with
39 the 2024–25 fiscal year, implement the new base rate, which shall
40 be annually increased by the cost-of-living adjustment granted by

1 the Legislature pursuant to Section 42238.15. Commencing July
2 1, 2018, the full-day state preschool reimbursement rate shall be
3 twelve thousand seventy dollars (\$12,070) and, commencing with
4 the 2019–20 fiscal year, shall be annually increased by the
5 cost-of-living adjustment granted by the Legislature pursuant to
6 Section 42238.15.

7 (c) The reimbursement system plan shall require agencies having
8 an assigned reimbursement rate above the current year standard
9 reimbursement rate to reduce costs on an incremental basis to
10 achieve the standard reimbursement rate.

11 (d) (1) The reimbursement system plan shall provide for
12 adjusting reimbursement on a case-by-case basis, in order to
13 maintain service levels for agencies. Assigned reimbursement rates
14 shall be increased only on the basis of one or more of the following:

15 (A) Loss of program resources from other sources.

16 (B) Need of an agency to pay the same childcare rates as those
17 prevailing in the local community.

18 (C) Increased costs directly attributable to new or different
19 regulations.

20 (D) Documented increased costs necessary to maintain the prior
21 year’s level of service and ensure the continuation of threatened
22 programs.

23 (2) Childcare agencies funded at the lowest rates shall be given
24 first priority for increases.

25 (e) The reimbursement system plan shall provide for expansion
26 of child development programs at no more than the standard
27 reimbursement rate for that fiscal year.

28 (f) The department may reduce the percentage of reduction for
29 a public agency that satisfies any of the following:

30 (1) Serves more than 400 children.

31 (2) Has in effect a collective bargaining agreement.

32 (3) Has other extenuating circumstances that apply, as
33 determined by the department.

34 (g) (1) Notwithstanding Section 8265.5, on or before July 1,
35 2022, and annually thereafter, the department shall establish a
36 reimbursement rate target for each contracting agency that meets
37 quality standards pursuant to Sections 8203, 8208, 8244, 8261,
38 8264.7, 8360, and 8360.1, and any regulations adopted thereunder,
39 based on all of the following elements:

- 1 (A) The regional market rate ceilings for the contracting
2 agency's county, as applicable, pursuant to Section 8357.
- 3 (B) The quality adjustment factor for the age range of children
4 proposed to be served by the contracting agency, as a multiplier,
5 specified in paragraph (3).
- 6 (C) The program year and hours of service reimbursement factor
7 pursuant to Section 8266.1, if applicable.
- 8 (D) Additional adjustment factors for special circumstances or
9 services, as described under Section 8265.5, if applicable.
- 10 (E) A short-term crisis adjustment factor of 1.5 under any state
11 of emergency declarations made by local or state officials.
- 12 (2) A contracting agency's rate target shall not be less than that
13 agency's 2022 rate, by age range, pursuant to Section 8265.5.
- 14 (3) The department, in order to meet the costs of providing
15 quality standards pursuant to Sections 8203, 8208, 8244, 8261,
16 8264.7, 8360, and 8360.1, and any regulations adopted thereunder
17 beyond those calculated in the regional market rate survey, shall
18 establish quality adjustment factors for all of the following age
19 ranges:
- 20 (A) For infants who are 0 to 18 months of age, the adjustment
21 factor shall be 1.23.
- 22 (B) For toddlers who are 18 to 36 months of age, the adjustment
23 factor shall be 1.23.
- 24 (C) For preschoolers who are 36 months to six years of age, the
25 adjustment factor shall be 1.23.
- 26 (D) For schoolage children who are six years of age and older,
27 the adjustment factor shall be 1.03.
- 28 (4) All providers, regardless of type, meeting quality standards
29 specified in paragraph (3) shall be paid the quality adjustment
30 factor, including family child care home education networks.
- 31 (5) The reimbursement system plan shall include a formula for
32 annually adjusting reimbursement rates for each agency, based on
33 all of the following:
- 34 (A) The annual Budget Act funding allocated for standard
35 reimbursement rate increases pursuant to this section.
- 36 (B) An equitable distribution of standard reimbursement rate
37 increases to agencies, by county, as an equal percentage of the
38 county outstanding rate target, for purposes of meeting the targets
39 identified pursuant to this subdivision.

1 (C) Funding allocated for cost-of-living adjustments, if
2 applicable.

3 (h) This section shall become operative on or after July 1, 2022,
4 upon an appropriation in the annual Budget Act or another act for
5 the express purpose of implementing this section.

6 SEC. 3. Section 8265.5 of the Education Code is amended to
7 read:

8 8265.5. (a) In order to reflect the additional expense of serving
9 children who meet any of the criteria outlined in subdivision (c),
10 the provider agency's reported child days of enrollment for these
11 children shall be multiplied by the adjustment factors listed below.

12 (b) (1) Except as provided in paragraph (2), the adjustment
13 factors described in subdivision (c) shall apply to a state preschool
14 program and those programs for which assigned reimbursement
15 rates are at or below the standard reimbursement rate. In addition,
16 the adjustment factors shall apply to those programs for which
17 assigned reimbursement rates are above the standard reimbursement
18 rate, but the reimbursement rate, as adjusted, shall not exceed the
19 adjusted standard reimbursement rate. The adjustment factors shall
20 apply to those state preschool programs for which assigned
21 reimbursement rates are above the state preschool reimbursement
22 rate, but the reimbursement rate, as adjusted, shall not exceed the
23 adjusted state preschool reimbursement rate.

24 (2) The adjustment factors described in paragraphs (5) and (6)
25 of subdivision (c) shall apply only for full-day preschool programs
26 and those part-day preschool programs for which assigned
27 reimbursement rates are at or below the standard reimbursement
28 rate.

29 (c) Notwithstanding any other law, commencing January 1,
30 2019, the adjustment factors shall be as follows:

31 (1) For infants who are 0 to 18 months of age and are served in
32 a child daycare center or a family childcare home, the adjustment
33 factor shall be 2.44.

34 (2) For toddlers who are 18 to 36 months of age and are served
35 in a child daycare center or a family childcare home, the adjustment
36 factor shall be 1.8.

37 (3) For children with exceptional needs who are 0 to 21 years
38 of age, the adjustment factor shall be 1.54.

39 (4) For severely disabled children who are 0 to 21 years of age,
40 the adjustment factor shall be 1.93.

1 (5) For children at risk of neglect, abuse, or exploitation who
2 are 0 to 14 years of age, the adjustment factor shall be 1.1.

3 (6) For limited-English-speaking and non-English-speaking
4 children who are two years of age through kindergarten age, the
5 adjustment factor shall be 1.1.

6 (7) For children who are served in a California state preschool
7 program, infants and toddlers who are 0 to 36 months of age and
8 are served in general childcare and development programs, or
9 children who are 0 to 5 years of age and are served in a family
10 childcare home education network setting funded by a general
11 childcare and development program, where early childhood mental
12 health consultation services are provided, pursuant to Section
13 8265.2, the adjustment factor shall be 1.05.

14 (8) For children who are served in a county experiencing a
15 county state of emergency, or any county during a statewide state
16 of emergency, the crisis adjustment factor shall be 1.5.

17 (d) Use of the adjustment factors shall not increase the provider
18 agency's total annual allocation.

19 (e) (1) Days of enrollment for children who meet more than
20 one of the criteria outlined in paragraphs (1) to (6), inclusive, of
21 subdivision (c) shall not be reported under more than one of the
22 categories specified in those paragraphs.

23 (2) Notwithstanding paragraph (1), for children for whom an
24 adjustment factor is applied pursuant to any of paragraphs (1) to
25 (6), inclusive, of subdivision (c), and who are additionally eligible
26 for the adjustment factor established in paragraph (7) of subdivision
27 (c), reported child days of enrollment shall be multiplied by the
28 sum of the applicable adjustment factor under paragraphs (1) to
29 (6), inclusive, of subdivision (c) and 0.05.

30 (f) The difference between the reimbursement resulting from
31 the use of the adjustment factors outlined in subdivision (c) and
32 the reimbursement that would otherwise be received by a provider
33 in the absence of the adjustment factors shall be used for special
34 and appropriate services for each child for whom an adjustment
35 factor is claimed.

36 (g) This section shall become inoperative on July 1, 2022, and,
37 as of January 1, 2023, is repealed.

38 SEC. 4. Section 8265.5 is added to the Education Code, to
39 read:

1 8265.5. (a) In order to reflect the additional expense of serving
2 children who meet any of the criteria outlined in subdivision (b),
3 the provider agency's reported child days of enrollment for these
4 children shall be multiplied by the adjustment factors listed below.

5 (b) Notwithstanding any other law, the adjustment factors shall
6 be as follows:

7 (1) For children with exceptional needs who are 0 to 21 years
8 of age, the adjustment factor shall be 1.54.

9 (2) For severely disabled children who are 0 to 21 years of age,
10 the adjustment factor shall be 1.93.

11 (3) For children at risk of neglect, abuse, or exploitation who
12 are 0 to 14 years of age, the adjustment factor shall be 1.1.

13 (4) For limited-English-speaking and non-English-speaking
14 children who are two years of age through kindergarten age, the
15 adjustment factor shall be 1.1.

16 (5) For children who are served in a California state preschool
17 program, infants and toddlers who are 0 to 36 months of age and
18 are served in general childcare and development programs, or
19 children who are 0 to 5 years of age and are served in a family
20 childcare home education network setting funded by a general
21 childcare and development program, where early childhood mental
22 health consultation services are provided, pursuant to Section
23 8265.2, the adjustment factor shall be 1.05.

24 (6) For children who are served in a county experiencing a
25 county state of emergency, or any county during a statewide state
26 of emergency, the crisis adjustment factor shall be ~~1.5~~ *1.5 based*
27 *on the enrollment of children in the program.*

28 (c) Use of the adjustment factors shall not increase the provider
29 agency's total annual allocation.

30 (d) (1) Days of enrollment for children who meet more than
31 one of the criteria outlined in paragraphs (1) to (4), inclusive, of
32 subdivision (b) shall not be reported under more than one of the
33 categories specified in those paragraphs.

34 (2) Notwithstanding paragraph (1), for children for whom an
35 adjustment factor is applied pursuant to any of paragraphs (1) to
36 (4), inclusive, of subdivision (b), and who are additionally eligible
37 for the adjustment factor established in paragraph (5) of subdivision
38 (b), reported child days of enrollment shall be multiplied by the
39 sum of the applicable adjustment factor under paragraphs (1) to
40 (4), inclusive, of subdivision (b) and 0.05.

1 (e) The difference between the reimbursement resulting from
2 the use of the adjustment factors outlined in subdivision (b) and
3 the reimbursement that would otherwise be received by a provider
4 in the absence of the adjustment factors shall be used for special
5 and appropriate services for each child for whom an adjustment
6 factor is claimed.

7 (f) This section shall become operative on July 1, 2022.

8 SEC. 5. Section 8266.1 of the Education Code is amended to
9 read:

10 8266.1. Commencing with the 1995–96 fiscal year and each
11 fiscal year thereafter, for purposes of this chapter, reimbursement
12 rates shall be adjusted by the following reimbursement factors for
13 childcare and development programs with a standard
14 reimbursement rate, but shall not apply to the resource and referral
15 programs set forth in Article 2 (commencing with Section 8210),
16 the alternative payment programs set forth in Article 3
17 (commencing with Section 8220), the part-day California state
18 preschool programs set forth in Article 7 (commencing with
19 Section 8235), the schoolage community childcare services
20 programs set forth in Article 22 (commencing with Section 8460),
21 or to the schoolage parent and infant development programs:

22 (a) For childcare and development providers serving children
23 for less than four hours per day, the reimbursement factor is 50
24 percent of the standard reimbursement rate.

25 (b) For childcare and development program providers serving
26 children for not less than four hours per day, and less than six and
27 one-half hours per day, the reimbursement factor is 75 percent of
28 the standard reimbursement rate. For childcare and development
29 program providers operating under Article 15.5 (commencing with
30 Section 8350) and serving children for not less than four hours per
31 day, and less than seven hours per day, the reimbursement factor
32 is 75 percent of the standard reimbursement rate.

33 (c) For childcare and development program providers serving
34 children for not less than six and one-half hours per day, and less
35 than 10 and one-half hours per day, the reimbursement factor is
36 100 percent of the standard reimbursement rate. For childcare and
37 development program providers operating under Article 15.5
38 (commencing with Section 8350) and serving children for not less
39 than seven hours per day, and less than 10 hours per day, the

1 reimbursement factor is 100 percent of the standard reimbursement
2 rate.

3 (d) For childcare and development program providers serving
4 children for 10 and one-half hours or more per day, the
5 reimbursement factor is 118 percent of the standard reimbursement
6 rate.

7 (e) For childcare and development program providers serving
8 children in a county experiencing a county state of emergency, or
9 any county during a statewide state of emergency, the crisis
10 adjustment factor shall be 150 percent of the standard
11 reimbursement ~~rate~~. *rate based on the enrollment of children in*
12 *the program.*

13 SEC. 6. Section 8357 of the Education Code is amended to
14 read:

15 8357. (a) The cost of childcare services provided under this
16 article shall be governed by regional market rates. Recipients of
17 childcare services provided pursuant to this article shall be allowed
18 to choose the childcare services of licensed childcare providers or
19 childcare providers who, by law, are not required to be licensed,
20 and the cost of that childcare shall be reimbursed by counties or
21 agencies that contract with the department if the cost is within the
22 regional market rate. For purposes of this section, “regional market
23 rate” means care costing no more than 1.5 market standard
24 deviations above the mean cost of care for that region. It is the
25 intent of the Legislature to reimburse childcare providers at the
26 85th percentile of the most recent regional market rate survey.

27 (b) (1) The regional market rate ceilings shall be established
28 at the greater of either of the following:

29 (A) The 75th percentile of the 2018 regional market rate survey
30 for that region.

31 (B) The regional market rate ceiling that existed in that region
32 on December 31, 2017.

33 (2) Upon an appropriation by the Legislature for the express
34 purpose of this paragraph, and during the 2021 calendar year, the
35 2021 regional market rate ceilings shall be established ~~at the greater~~
36 ~~of the 75th percentile of the 2021 regional market~~ *no less than the*
37 *85th percentile of the 2018 regional market rate survey* for that
38 region or the regional market rate ceiling that existed in that region
39 on December 31, ~~2017~~. *2017, whichever is greater.*

1 (3) Upon an appropriation by the Legislature for the express
2 purpose of this paragraph, commencing ~~January 1, 2022, with the~~
3 ~~2021–22 fiscal year,~~ and annually thereafter, the regional market
4 rate ceilings shall be established at *no less than* the 85th percentile
5 of the 2018 regional market *rate* survey for that region or the
6 regional market rate ceiling that existed in that region on December
7 31, 2017, whichever is greater.

8 (4) Notwithstanding paragraphs (2) and (3), and if there is no
9 appropriation, the regional market rate ceilings shall be established
10 pursuant to paragraph (1).

11 (c) (1) Reimbursement to license-exempt childcare providers
12 shall not exceed 70 percent of the family childcare home rate
13 established pursuant to subdivision (b).

14 (2) Notwithstanding any other law, upon an appropriation by
15 the Legislature for the express purpose of this paragraph,
16 commencing January 1, 2022, and annually thereafter,
17 license-exempt childcare providers shall not exceed 70 percent of
18 the commensurate rate, including hourly, daily, weekly, and
19 monthly, for both full-time and part-time care established pursuant
20 to subdivision (b).

21 (d) Reimbursement to childcare providers shall not exceed the
22 fee charged to private clients for the same service.

23 (e) Reimbursement shall not be made for childcare services
24 when care is provided by parents, legal guardians, or members of
25 the assistance unit.

26 (f) A childcare provider located on an Indian reservation or
27 rancheria and exempted from state licensing requirements shall
28 meet applicable tribal standards.

29 (g) For purposes of this section, “reimbursement” means a direct
30 payment to the provider of childcare services, including
31 license-exempt providers. If care is provided in the home of the
32 recipient, payment may be made to the parent as the employer,
33 and the parent shall be informed of their concomitant legal and
34 financial reporting requirements. To allow time for the
35 development of the administrative systems necessary to issue direct
36 payments to providers, for a period not to exceed six months from
37 the effective date of this article, a county or an alternative payment
38 agency contracting with the department may reimburse the cost
39 of childcare services through a direct payment to a recipient of aid
40 rather than to the childcare provider.

1 (h) Counties and alternative payment programs shall not be
2 bound by the rate limits described in subdivisions (a) and (b), when
3 there are, in the region, no more than two childcare providers of
4 the type needed by the recipient of childcare services provided
5 under this article.

6 (i) (1) Notwithstanding any other law, reimbursements to
7 childcare providers based upon a daily rate may only be authorized
8 under either of the following circumstances:

9 (A) A family has an unscheduled but documented need of six
10 hours or more per occurrence, such as the parent's need to work
11 on a regularly scheduled day off, that exceeds the certified need
12 for childcare.

13 (B) A family has a documented need of six hours or more per
14 day that exceeds no more than 14 days per month. Reimbursements
15 to a childcare provider based on the daily rate over one month's
16 time shall not exceed the childcare provider's equivalent full-time
17 monthly rate or applicable monthly ceiling.

18 (2) This subdivision shall not limit childcare providers from
19 being reimbursed for services using a weekly or monthly rate,
20 pursuant to subdivision (c) of Section 8222.

21 SEC. 7. Section 8447 of the Education Code is amended to
22 read:

23 8447. (a) The Legislature hereby finds and declares that greater
24 efficiencies may be achieved in the execution of state subsidized
25 childcare and development program contracts with public and
26 private agencies by the timely approval of contract provisions by
27 the Department of Finance, the Department of General Services,
28 and the department, and by authorizing the department to establish
29 a multiyear application, contract expenditure, and service review,
30 as may be necessary, to provide timely service while preserving
31 audit and oversight functions to protect the public welfare.

32 (b) (1) The Department of Finance and the Department of
33 General Services shall approve or disapprove annual contract
34 funding terms and conditions, including both family fee schedules
35 and regional market rate schedules that are required to be adhered
36 to by contract, and contract face sheets submitted by the department
37 not more than 30 working days from the date of submission, unless
38 unresolved conflicts remain between the Department of Finance,
39 the department, and the Department of General Services. The
40 department shall resolve conflicts within an additional 30 working

1 day time period. Contracts and funding terms and conditions shall
2 be issued to childcare contractors no later than June 1. Applications
3 for new childcare funding shall be issued not more than 45 working
4 days after the effective date of authorized new allocations of
5 childcare moneys.

6 (2) Notwithstanding paragraph (1), the department shall
7 implement the regional market rate schedules based upon the
8 county aggregates, as specified in Section 8357 and the annual
9 Budget Act.

10 (3) It is the intent of the Legislature to fully fund the third stage
11 of childcare for former CalWORKs recipients.

12 (c) With respect to subdivision (b), it is the intent of the
13 Legislature that the Department of Finance annually review
14 contract funding terms and conditions for the primary purpose of
15 ensuring consistency between childcare contracts and the childcare
16 budget. This review shall include evaluating any proposed changes
17 to contract language or other fiscal documents to which the
18 contractor is required to adhere, including those changes to terms
19 or conditions that authorize higher reimbursement rates, modify
20 related adjustment factors, modify administrative or other service
21 allowances, or diminish fee revenues otherwise available for
22 services, to determine if the change is necessary or has the potential
23 effect of reducing the number of full-time equivalent children that
24 may be served.

25 (d) Alternative payment childcare systems, as set forth in Article
26 3 (commencing with Section 8220), shall be subject to the rates
27 established in the Regional Market Rate Survey of California Child
28 Care Providers, pursuant to subdivision (g), for provider payments.

29 (e) By March 1 of each year, the Department of Finance shall
30 provide to the department the state median income amount for a
31 four-person household in California using the methodology
32 provided in subdivision (c) of Section 8263.1. The department
33 shall adjust its fee schedule for childcare providers to reflect this
34 updated state median income, and changes based on revisions to
35 the state median income amount shall not be implemented midyear.

36 (f) Notwithstanding the June 1 date specified in subdivision (b),
37 changes to the regional market rate schedules and fee schedules
38 may be made at any other time to reflect the availability of accurate
39 data necessary for their completion, provided these documents
40 receive the approval of the Department of Finance. The Department

1 of Finance shall review the changes within 30 working days of
2 submission and the department shall resolve conflicts within an
3 additional 30 working day time period. Contractors shall be given
4 adequate notice before the effective date of the approved schedules.
5 It is the intent of the Legislature that contracts for services not be
6 delayed by the timing of the availability of accurate data needed
7 to update these schedules.

8 (g) (1) The department shall contract to conduct and complete
9 a regional market rate survey no more frequently than once every
10 two years, with a goal of completion by March 1.

11 (2) The department shall update the regional market rate survey
12 methodology to include both of the following:

13 (A) Age ranges and hours of service ranges pursuant to Section
14 8265.

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

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