

AMENDED IN ASSEMBLY MAY 1, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2125**

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**Introduced by Assembly Member Ridley-Thomas**

February 20, 2014

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An act to amend Sections 8265, 8265.5, 8266, 8266.1, and 8357 of, and to repeal Section 8265.7 of, the Education Code, relating to child care.

LEGISLATIVE COUNSEL'S DIGEST

AB 2125, as amended, Ridley-Thomas. Child care: standard reimbursement rates.

Existing law establishes a system of child care and development services for children from infancy to 13 years of age and provides certain requirements for the payment by the state for these child care and development services. Existing law requires the Superintendent of Public Instruction to implement a plan that establishes reasonable standards and assigned reimbursement rates, as provided, and requires the standard reimbursement rate to be \$3,523 per unit of average daily enrollment for a 250-day year, increased by the cost-of-living adjustment granted by the Legislature. Existing law requires the plan to require agencies having an assigned reimbursement rate above the current year standard reimbursement rate to reduce costs on an incremental basis to achieve the standard rate and requires the plan to provide for adjusting reimbursements on a case-by-case basis, as provided.

This bill would delete these requirements relating to assigned reimbursement rates and reimbursement adjustments. The bill would

delete references to the standard reimbursement rate and instead would require, *among other things*, the reimbursement rate to ~~reflect the actual current cost of care~~ *be based on the most recent regional market rate survey with the ceiling established at the 100th percentile* in each region per unit of average daily enrollment for a 250-day year. The bill would make conforming changes.

Existing law applies various adjustment factors to specified programs, *including programs for infants and toddlers*, for which reimbursement rates are at or below the standard reimbursement rate, as provided.

This bill would delete the requirement that the adjustment factors apply to those specified programs. *The bill would also delete the adjustment factors for infants and toddlers.*

Existing law authorizes programs above the standard reimbursement rate to be considered on a case-by-case basis for rate adjustments due to documented increases in insurance costs.

This bill would delete this provision.

Existing law requires the cost of child care services provided to CalWORKs recipients to be governed by regional market rates. Existing law requires regional market rate ceilings to be established at the 85th percentile of the 2005 regional market rate survey for that region.

This bill would instead establish the market rate ceiling at the 85th percentile of the ~~current~~ *most recent* regional market rate survey for that region.

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 Superintendent shall implement a plan that
- 4 establishes reasonable standards and assigned reimbursement rates,
- 5 through a single reimbursement system, which vary with the length
- 6 of the program 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.

1 (4) The Superintendent may establish any regulations he or she  
2 deems advisable concerning conditions of service and hours of  
3 enrollment for children in the programs.

4 (b) (1) ~~The reimbursement rate shall reflect the actual current~~  
5 ~~cost of care~~ *be based on the most recent regional market rate*  
6 *survey with the ceiling established at the 100th percentile in each*  
7 *region per unit of average daily enrollment for a 250-day year.*  
8 *The department may divide the weekly regional market rate by*  
9 *five to obtain a daily rate.*

10 (2) *Beginning with the year of the most recent market rate survey*  
11 *established pursuant to paragraph (1), as amended by this act in*  
12 *the 2013–14 Regular Session of the Legislature, contractors that*  
13 *are expected to receive less under the most recent regional market*  
14 *rate survey than what they previously received shall instead receive*  
15 *the reimbursement rate that was in effect on July 1, 2014, until the*  
16 *reimbursement rate specified in paragraph (1) exceeds that rate.*

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

20 (d) The Superintendent may reduce the percentage of reduction  
21 for a public agency that satisfies any of the following:

- 22 (1) Serves more than 400 children.
- 23 (2) Has in effect a collective bargaining agreement.
- 24 (3) Has other extenuating circumstances that apply, as  
25 determined by the Superintendent.

26 SEC. 2. Section 8265.5 of the Education Code is amended to  
27 read:

28 8265.5. (a) In order to reflect the additional expense of serving  
29 children who meet any of the criteria outlined in paragraphs (1)  
30 to ~~(7)~~, (4), inclusive, of subdivision (b) the provider agency's  
31 reported child days of enrollment for these children shall be  
32 multiplied by the adjustment factors listed below.

33 (b) Pursuant to subdivision (a), the following adjustment factors  
34 shall apply:

35 ~~(1) For infants who are 0 to 18 months of age and are served in~~  
36 ~~a child day care center, the adjustment factor shall be 1.7.~~

37 ~~(2) For toddlers who are 18 to 36 months of age and are served~~  
38 ~~in a child day care center, the adjustment factor shall be 1.4.~~

1 ~~(3) For infants and toddlers who are 0 to 36 months of age and~~  
2 ~~are served in a family child care home, the adjustment factor shall~~  
3 ~~be 1.4.~~

4 ~~(4)~~

5 (1) For children with exceptional needs who are 0 to 21 years  
6 of age, the adjustment factor shall be 1.2.

7 ~~(5)~~

8 (2) For severely disabled children who are 0 to 21 years of age,  
9 the adjustment factor shall be 1.5.

10 ~~(6)~~

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

13 ~~(7)~~

14 (4) For limited-English-speaking and non-English-speaking  
15 children who are ~~2~~ two years of age through kindergarten age, the  
16 adjustment factor shall be 1.1.

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

19 (d) Days of enrollment for children having more than one of  
20 the criteria outlined in paragraphs (1) to ~~(7)~~; (4), inclusive, of  
21 subdivision (b) shall not be reported under more than one of the  
22 above categories.

23 (e) The difference between the reimbursement resulting from  
24 the use of the adjustment factors outlined in paragraphs (1) to ~~(7)~~;  
25 (4), inclusive, of subdivision (b) and the reimbursement that would  
26 otherwise be received by a provider in the absence of the  
27 adjustment factors shall be used for special and appropriate services  
28 for each child for whom an adjustment factor is claimed.

29 SEC. 3. Section 8265.7 of the Education Code is repealed.

30 SEC. 4. Section 8266 of the Education Code is amended to  
31 read:

32 8266. (a) Notwithstanding Section 8265, the assigned  
33 reimbursement rate of a center-based child care agency (1)  
34 contracting with the department, (2) operating under licensing  
35 standards for child care and development facilities specified by  
36 Section 1500 et seq. of the Health and Safety Code and by Title  
37 22 of the California Code of Regulations, and (3) with less than a  
38 majority of subsidized children enrolled in the facility, shall be  
39 equivalent to the fee paid for the same service by families of  
40 nonsubsidized children.

1 (b) (1) It is not the intent of the Legislature to preclude an  
2 agency with a contract with the department from adjusting the fees  
3 charged to nonsubsidized children during the contract year.

4 (2) These agencies shall provide documentation to the  
5 department that subsidized children, as necessary and appropriate,  
6 shall receive supportive services through county welfare  
7 departments, resource and referral programs, or other existing  
8 community resources, or all of them.

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

11 8266.1. Commencing with the 1995–96 fiscal year and each  
12 fiscal year thereafter, for the purposes of this chapter,  
13 reimbursement rates shall be adjusted by the following  
14 reimbursement factors for child care and development programs  
15 but shall not apply to the Resource and Referral Programs set forth  
16 in Article 2 (commencing with Section 8210), the Alternative  
17 Payment Programs set forth in Article 3 (commencing with Section  
18 8220), the part-day California state preschool programs set forth  
19 in Article 7 (commencing with Section 8235), or to the schoolage  
20 parent and infant development programs:

21 (a) For child care and development providers serving children  
22 for less than four hours per day, the reimbursement factor is 55  
23 percent of the reimbursement rate.

24 (b) For child care and development program providers serving  
25 children for not less than four hours per day, and less than six and  
26 one-half hours per day, the reimbursement factor is 75 percent of  
27 the reimbursement rate. For providers operating under the At Risk  
28 Child Care Program set forth in Article 15.5 (commencing with  
29 Section 8350) and serving children for not less than four hours per  
30 day, and less than seven hours per day, the reimbursement factor  
31 is 75 percent of the reimbursement rate.

32 (c) For child care and development program providers serving  
33 children for not less than six and one-half hours per day, and less  
34 than 10 and one-half hours per day, the reimbursement factor is  
35 100 percent of the reimbursement rate. For providers operating  
36 under the At Risk Child Care Program set forth in Article 15.5  
37 (commencing with Section 8350) and serving children for not less  
38 than seven hours per day, and less than 10 hours per day, the  
39 reimbursement factor is 100 percent of the reimbursement rate.

1 (d) For child care and development program providers serving  
2 children for ~~10½~~- 10 and one-half hours or more per day, the  
3 reimbursement factor is 118 percent of the reimbursement rate.

4 SEC. 6. Section 8357 of the Education Code is amended to  
5 read:

6 8357. (a) The cost of child care services provided under this  
7 article shall be governed by regional market rates. Recipients of  
8 child care services provided pursuant to this article shall be allowed  
9 to choose the child care services of licensed child care providers  
10 or child care providers who are, by law, not required to be licensed,  
11 and the cost of that child care shall be reimbursed by counties or  
12 agencies that contract with the State Department of Education if  
13 the cost is within the regional market rate. For purposes of this  
14 section, “regional market rate” means care costing no more than  
15 1.5 market standard deviations above the mean cost of care for  
16 that region. The regional market rate ceilings shall be established  
17 at the 85th percentile of the ~~current~~ most recent regional market  
18 rate survey for that region.

19 (b) Reimbursement to license-exempt child care providers shall  
20 not exceed 60 percent of the family child care home rate established  
21 pursuant to subdivision (a), effective July 1, 2011.

22 (c) Reimbursement to child care providers shall not exceed the  
23 fee charged to private clients for the same service.

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

27 (e) A child care provider located on an Indian reservation or  
28 rancheria and exempted from state licensing requirements shall  
29 meet applicable tribal standards.

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

1 reimburse the cost of child care services through a direct payment  
2 to a recipient of aid rather than to the child care provider.

3 (g) Counties and alternative payment programs shall not be  
4 bound by the rate limits described in subdivision (a) when there  
5 are, in the region, no more than two child care providers of the  
6 type needed by the recipient of child care services provided under  
7 this article.

8 (h) Notwithstanding any other law, reimbursements to child  
9 care providers based upon a daily rate shall only be authorized  
10 under either of the following circumstances:

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

15 (2) A family has a documented need of six hours or more per  
16 day that exceeds no more than 14 days per month. In no event shall  
17 reimbursements to a provider based on the daily rate over one  
18 month's time exceed the provider's equivalent full-time monthly  
19 rate or applicable monthly ceiling.

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