

An act to amend Sections 10228 and 10374.5 of the Welfare and Institutions Code, relating to childcare.

SECURED  
COPY



## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 10228 of the Welfare and Institutions Code is amended to read:

10228. (a) Payments made by alternative payment programs shall not exceed the applicable market rate ceiling. Alternative payment programs may expend more than the standard reimbursement rate for a particular child. However, the aggregate payments for services purchased by the agency during the contract year shall not exceed the assigned reimbursable amount as established by the contract for the year. No agency may make payments in excess of the rate charged to full-cost families. This section does not preclude alternative payment programs from using the average daily enrollment adjustment factor for children with exceptional needs as provided in Section 10281.5.

(b) Alternative payment programs shall reimburse licensed-~~child care~~ childcare providers in accordance with a biennial market rate survey pursuant to Section 10436, at a rate not to exceed the ceilings established pursuant to Section 10374.5.

(c) An alternative payment program shall reimburse a licensed provider for ~~child care~~ childcare of a subsidized child based on the rate charged by the provider to nonsubsidized families, if any, for the same services, or the rates established by the provider for prospective nonsubsidized families. A licensed-~~child care~~ childcare provider shall submit to the alternative payment program a copy of the provider's rate sheet listing the rates charged, and the provider's discount or scholarship policies, if any, along with a statement signed by the provider confirming that the rates charged for a subsidized child are equal to or less than the rates charged for a nonsubsidized child. A license-exempt childcare provider is not required to submit rate sheets.

(d) An alternative payment program shall maintain a copy of the rate sheet and the confirmation statement.

(e) A licensed-~~child care~~ childcare provider shall submit to the local resource and referral agency a copy of the provider's rate sheet listing rates charged, and the provider's discount or scholarship policies, if any, and shall self-certify that the information is correct.

(f) Each licensed-~~child care~~ childcare provider may alter rate levels for subsidized children, as needed, and shall provide the alternative payment program and resource and referral agency with the updated information pursuant to subdivisions (c) and (e), to reflect any changes. Updated rates shall be effective within 60 days of submission of the updated information pursuant to subdivisions (c) and (e).

(g) A licensed-~~child care~~ childcare provider shall post in a prominent location adjacent to the provider's license at the ~~child care~~ childcare facility the provider's rates and discounts or scholarship policies, if any.

(h) An alternative payment program shall verify provider rates no less frequently than once a year by randomly selecting 10 percent of licensed-~~child care~~ childcare providers serving subsidized families. The purpose of this verification process is to confirm that rates reported to the alternative payment programs reasonably correspond to those reported to the resource and referral agency and the rates actually charged to nonsubsidized families for equivalent levels of services. It is the intent of the Legislature that the privacy of nonsubsidized families shall be protected in implementing this subdivision.



(i) The department shall develop regulations for addressing discrepancies in the provider rate levels identified through the rate verification process in subdivision (h).

(j) If a childcare provider's reimbursement rate category could be construed as either full-time weekly or full-time monthly pursuant to Section 18075 of Title 5 of the California Code of Regulations, the alternative payment program, county, or contractor shall reimburse the provider in accordance with either of the following:

(1) The applicable rate category that most closely corresponds to the rate category listed on the licensed childcare provider's rate sheet.

(2) If the alternative payment program, county, or contractor cannot determine a single applicable rate category from the licensed childcare provider's rate sheet, or if the license-exempt childcare provider does not have a rate sheet on file, the applicable rate category that results in the higher reimbursement.

SEC. 2. Section 10374.5 of the Welfare and Institutions Code is amended to read:

10374.5. (a) The cost of ~~child care~~ childcare services provided under this chapter shall be governed by regional market rates. Recipients of ~~child care~~ childcare services provided pursuant to this chapter shall be allowed to choose the ~~child care~~ childcare services of licensed ~~child care~~ childcare providers or ~~child care~~ childcare providers who, by law, are not required to be licensed, and the cost of that ~~child care~~ childcare shall be reimbursed by counties or agencies that contract with the department if the cost is within the regional market rate. For purposes of this section, "regional market rate" means care costing no more than 1.5 market standard deviations above the mean cost of care for that region. It is the intent of the Legislature to reimburse ~~child care~~ childcare providers at the 85th percentile of the most recent regional market rate survey.

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

(A) The 75th percentile of the 2016 regional market rate survey for that region.

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

(2) Commencing January 1, 2022, the regional market rate ceilings shall be established at the greater of either of the following:

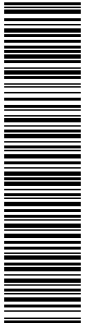
(A) The 75th percentile of the 2018 regional market rate survey for that region.

(B) The regional market rate ceiling that existed in that region on December 31, 2021.

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

(2) Commencing January 1, 2022, license-exempt ~~child care~~ childcare providers shall be reimbursed at 70 percent of the family ~~child care~~ childcare home rate established pursuant to subdivision (b), including hourly, daily, weekly, and monthly, for both full- and part-time reimbursement categories.

(d) (1) In accordance with federal requirements for Child Care Stabilization Grants appropriated pursuant to the federal American Rescue Plan Act of 2021 (Public Law 117-2), ~~child care~~ childcare providers shall provide information via a one-time application or survey in advance of receiving American Rescue Plan Act funds pursuant to paragraph (2) of subdivision (b) or paragraph (2) of subdivision (c). The department



shall specify the timeline and format in which this information shall be submitted, and information shall include, but not be limited to, all of the following:

- (A) Address, including ZIP Code.
- (B) Race and ethnicity.
- (C) Gender.
- (D) Whether the provider is open and available to provide ~~child care~~ childcare services or closed due to the COVID-19 public health emergency.

(E) What types of federal relief funds have been received from the state.  
 (F) Use of federal relief funds received.  
 (G) Documentation that the provider met certifications as required by federal law.

(2) Rate increases shall be subject to federal usage limitations and federal and state program eligibility requirements.

(e) Reimbursement to ~~child care~~ childcare providers shall not exceed the fee charged to private clients for the same service.

(f) Reimbursement shall not be made for ~~child care~~ childcare services when care is provided by parents, legal guardians, or members of the assistance unit.

(g) A ~~child care~~ childcare provider located on an Indian reservation or rancheria and exempted from state licensing requirements shall meet applicable tribal standards.

(h) For purposes of this section, “reimbursement” means a direct payment to the provider of ~~child care~~ childcare services, including license-exempt providers. If care is provided in the home of the recipient, payment may be made to the parent as the employer, and the parent shall be informed of their concomitant legal and financial reporting requirements. To allow time for the development of the administrative systems necessary to issue direct payments to providers, for a period not to exceed six months, a county or an alternative payment agency contracting with the department may reimburse the cost of ~~child care~~ childcare services through a direct payment to a recipient of aid rather than to the ~~child care~~ childcare provider.

(i) Counties and alternative payment programs shall not be bound by the rate limits described in subdivisions (a) and (b), when there are, in the region, no more than two ~~child care~~ childcare providers of the type needed by the recipient of ~~child care~~ childcare services provided under this chapter.

(j) (1) Notwithstanding any other law, reimbursements to ~~child care~~ childcare providers based upon a daily rate may only be authorized under either of the following circumstances:

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

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

(2) This subdivision shall not limit ~~child care~~ childcare providers from being reimbursed for services using a weekly or monthly rate, pursuant to ~~subdivision (e)~~ of Section 10228.



## LEGISLATIVE COUNSEL'S DIGEST

Bill No.  
as introduced, \_\_\_\_\_.  
General Subject: Childcare and development services: alternative payment programs:  
reimbursement.

Existing law, the Child Care and Development Services Act, administered by the State Department of Social Services, establishes a system of childcare and development services for children up to 13 years of age. Existing law requires the department to contract with local contracting agencies for alternative payment programs for childcare services to be provided throughout the state. Existing law requires an alternative payment program to reimburse a licensed provider for the childcare of a subsidized child based on the rate charged to nonsubsidized families or the rate established by the provider for prospective nonsubsidized families, as specified, and requires a licensed childcare provider to submit to the alternative payment program a copy of the provider's rate sheet listing the rates charged and other specified policies and statements.

This bill would provide that a license-exempt childcare provider is not required to submit rate sheets. The bill would, if a childcare provider's reimbursement rate category could be construed as either full-time weekly or full-time monthly, require the alternative payment program, county, or contractor to reimburse the provider either (1) the applicable rate category that most closely corresponds to the rate category listed on the licensed childcare provider's rate sheet, or (2) if the alternative payment program, county, or contractor cannot determine a single applicable rate category from the licensed childcare provider's rate sheet, or if the license-exempt childcare provider does not have a rate sheet on file, the applicable rate category that results in the higher reimbursement.

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

