

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, California 95814



November 29, 2004

ALL COUNTY LETTER NO. 04-54

TO: ALL COUNTY WELFARE DIRECTORS  
ALL COUNTY CHILD CARE COORDINATORS**REASON FOR THIS TRANSMITTAL**

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by  
One or More Counties
- Initiated by CDSS

SUBJECT: REGIONAL MARKET RATE (RMR) REGULATIONS

REFERENCE: ALL COUNTY LETTER (ACL) 03-41

This letter transmits the California Department of Education's (CDE) regulations governing the use of the RMR. The RMR ceilings are used to determine the maximum reimbursement amount for subsidized child care services, including Stage One.

**Background**

The RMR was developed by the California Child Care Resource and Referral Network and is based on a statewide survey of over 14,000 child care providers. The Budget Act of 2003 (Chapter 157, Statutes of 2003) directed CDE to promulgate emergency regulations governing use of the RMR to provide consistency statewide and to clarify the appropriate rate of reimbursement for child care services. Additionally, the Budget Act directed the California Department of Social Services (CDSS) to take appropriate steps to ensure that these emergency regulations apply to the California Work Opportunity and Responsibility to Kids (CalWORKs) Stage One Child Care Program.

The emergency regulations were released by CDSS in September 2003 through ACL 03-41. CDSS worked in a collaborative effort with CDE to finalize the RMR regulations. The final RMR regulations were filed with the Office of Administrative Law (OAL) and became permanent effective July 8, 2004. The Legislature proposed and was successful in suspending two sections of the regulations through trailer bill language. Therefore, the release of this ACL was delayed until the budget was signed and CDSS had confirmation that the two sections were suspended.

**RMR Regulations**

The permanent RMR regulations include some changes from the emergency regulations. These changes address concerns discovered subsequent to the release of the emergency regulations and during public comment periods. The highlights of these changes are listed below:

- ✓ The rate categories are re-defined and more flexible. They reflect how providers charge unsubsidized families. A visual illustration of the different rate categories is provided in Attachment A.
- ✓ The final RMR regulations clarify that license-exempt providers are to be reimbursed at a rate not to exceed the maximum payment level shown in the RMR ceilings, as distributed by CDE.
- ✓ Parents may utilize multiple providers if a single provider cannot accommodate the certified need for care.
- ✓ The same rules apply to both public and private recreation programs exempt from licensure, pursuant to Health and Safety Code Section 15962. The recreation programs must meet the requirements for participation in the Alternative Payment Program, utilize sign-in/out documents, provide adult supervision, and ensure that all employees who have contact with children have completed a criminal background check.

These highlights do not cover all of the changes in the regulations. There are other changes as well and we encourage counties to carefully review the regulations. These regulations, except for Sections 18074.3 and 18074.4, are effective as of July 8, 2004, and should be implemented as soon as administratively possible.

### **Suspension of Sections 18074.3 and 18074.4**

Senate Bill 1104 of 2004 has been enacted and suspends Sections 18074.3 and 18074.4 of the RMR regulations until July 1, 2005. These sections prescribe a method of determining the rate of reimbursement for all providers of child care services for subsidized families. In the absence of these two sections, counties should adopt their own written policies for establishing rates according to Education Code Sections 8222, 8266.5, and 8357(b). These sections state that reimbursement for subsidized child care shall not exceed the fee charged to private paying clients for the same service (see Attachment B).

The Legislature has stated its intent to address the issue of child care in and out of market rate differentiation. Suspending the two sections allows the Legislature more time to develop this method.

### **Notice of Action**

The CDSS Manual of Policies and Procedures (MPP), Chapter 47-420.3, specifies that counties shall notify clients whenever there is an approval, denial, change, or discontinuance in the amount of a child care subsidy. With the implementation of these regulations, it is possible that some clients' child care payments will be affected.

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To provide timely notice to these individuals, counties shall issue notices of action to these clients at least ten days before the change in child care benefits occurs. A copy of the NA Back 9, Your Hearing Rights, must accompany each of these notices. Counties are reminded that clients have the right to a hearing for the purpose of determining an incorrect subsidy or grant computation in accordance with MPP Section 22-003.

Please feel free to direct any questions regarding the RMR regulations to Alana Lee of the Child Care Programs Bureau at (916) 657-2144.

Sincerely,

***Original Document Signed By '  
Charr Lee Metsker on 11/29/04***

CHARR LEE METSKER  
Acting Deputy Director  
Welfare to Work Division

Attachments

c: California Welfare Director's Association  
California State Association of Counties

## **Attachment B Education Codes**

**8222.** Payments made by alternative payment programs shall be equal to the fee charged to full-cost families in each program. 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 may not exceed the assigned reimbursable amount established by the contract for the year.

Currently funded agencies making payments in excess of the fee charged to full-cost families shall come into compliance with this section by January 1, 1981.

This section does not preclude alternative payment programs from using the average daily enrollment adjustment factors for children with special needs as provided in Section 8265.5.

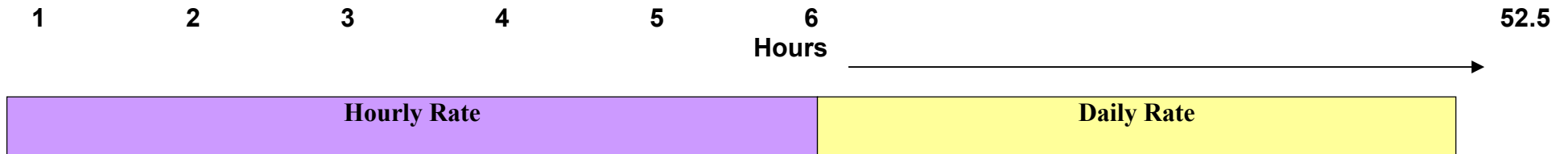
**8266.5** Notwithstanding the provisions of Section 8265, the payment made to a child care facility (a) with authorization for payments from an alternative payment program or a county welfare department, (b) operating under licensing standards for child day care facilities specified by Sections 1500 et seq. of the Health and Safety Code and by Title 22 of the California Administrative Code, and (c) with less than a majority of subsidized children enrolled in the facility, shall be the same as the fee paid for the same service by families of nonsubsidized children.

Each alternative payment system or county welfare department shall provide documentation that subsidized children, as necessary and appropriate, shall receive supportive services through county welfare departments, resource and referral programs, other existing community resources, or all of them.

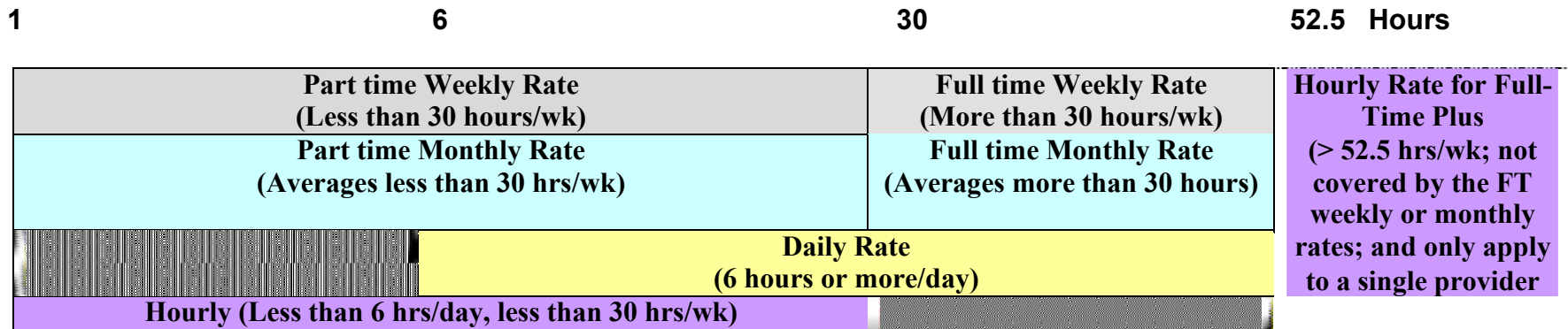
**8357(b)** Reimbursement to child care providers shall not exceed the fee charged to private clients for the same service.

**Attachment A**  
**A VISUAL ILLUSTRATION OF RMR RATE**  
**CATEGORIES**  
**DROP-IN CARE**

Per Day (By Hour)



**REGULAR CARE**



\***Daily or Hourly Rate** - may be used for full-time care when work schedule is so variable that no other rate categories would apply.

1 Title 5. EDUCATION

2 Division 1. ~~CALIFORNIA STATE~~ Department of Education

3 Chapter 19. Child Care and Development Programs

4 Subchapter 2. General Requirements

5 Article 1. General Provisions

6  
7 *Delete Section 18021 from Subchapter 2, Article 1:*

8 **§ 18021. Payments to Family Child Care Providers.**

9 (a) ~~Contractors who operate through family child care homes shall pay each non-employee family~~  
10 ~~child care provider the same rate(s) the provider charges non-subsidized families.~~

11 (b) ~~For non-employee family child care home providers that do not serve non-subsidized children, the~~  
12 ~~contractor shall pay a rate that is within 1.5 standard deviations of the mean market rate for family child~~  
13 ~~care homes as established by the most recent survey of the local resource and referral agency.~~

14 NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

15  
16 *Add Subchapter 2.5, Article 1, Sections 18074 to 18076.3 to read:*

17 **Subchapter 2.5. Utilization of the Regional Market Rate CEILING**

18 **Article 1. General Provisions**

19 **§ 18074. Applicable Regulations.**

20 The regulations contained in this Subchapter, except for those contained in Section 18075.1, shall  
21 apply to contractors using the regional market ~~rate~~ RATE ceiling to develop reimbursement agreements  
22 with licensed and license-exempt providers of child care and development services to eligible families.

23 Section 18075.1 applies to contractors developing reimbursement agreements with licensed providers  
24 only. **FOR THE PURPOSES OF THIS SUBCHAPTER, THE TERM “CONTRACTOR” SHALL**  
25 **ALSO APPLY TO COUNTY WELFARE DEPARTMENTS OPERATING PROGRAMS**  
26 **PURSUANT TO ARTICLE 15.5 OF CHAPTER 2 OF DIVISION 1 OF THE EDUCATION CODE.**

27 NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8265 and 8269,  
28 Education Code.

29  
30 **§ 18074.1. Definitions.**

31 (a) “Certified need for child care” means the number of days and hours of child care and  
32 development services approved and documented by the contractor as sufficient to meet the family’s need  
33 for child care ~~as specified in Education Code section 8263 (a)(2).~~

34 **(B) “COMPARABLE LOCAL RATE” MEANS THE AMOUNT CALCULATED BY THE**  
35 **CONTRACTOR PURSUANT TO SECTION 18074.4.**

36 ~~(D)~~(C) “Derived rate” means the rate calculated pursuant to Section 18074.3(i).

1 ~~(e)~~ “School age” means children enrolled in kindergarten through grade nine.

2 ~~(C)(D)~~ “Established rate” means the documented rates providers charge unsubsidized families  
3 pursuant to Section ~~S~~ 18074.3 or 18074.4 but not to exceed the regional market ceiling.

4 ~~(b)(D)~~ ~~(E)~~ “Maximum payment rate subsidy amount” means the regional market rate ~~rate~~ RATE ceiling  
5 plus any applicable adjustments pursuant to Section 18075.1 or 18075.2.

6 ~~(E)(F)~~ “Regional market RATE ceilings” means the maximum amount calculated by the Department  
7 that providers in different regions of the state may be reimbursed for the same type of child care for the  
8 same age child in accordance with statutory ceilings currently in effect.

9 ~~(F)(G)~~ “Subsidized families” means eligible families who are receiving child care and development  
10 services and on whose behalf the Department or the California Department of Social Services is providing  
11 reimbursement, in whole or in part.

12 ~~(G)(H)~~ “Unsubsidized” means children or families other than those defined in subsection ~~(F)(G)~~.

13 NOTE: Authority cited: Sections 8261, 8263, and 8269, Education Code. Reference: Sections 8263,  
14 8269, and 8461, Education Code.

15  
16 **§ 18074.2. Application of Regional Market Rate RATE Ceilings.**

17 ~~(a) Providers who establish a rate pursuant to Section 18074.3 of this subchapter, and who operate~~  
18 ~~with a valid license per Title 22 California Code of Regulations, Division 12, or are school districts~~  
19 ~~adhering to the requirements of Title 22 California Code of Regulations, Division 12, shall be reimbursed~~  
20 ~~pursuant to their established rate for the appropriate category in accordance with Section 18075, but not to~~  
21 ~~exceed the maximum payment rate.~~

22 ~~(b) Providers who establish a rate pursuant to Section 18074.3 of this subchapter, and who are~~  
23 ~~exempt from licensure per California Health and Safety Code sections 1596.792(d), (f), and (g), and~~  
24 ~~Title 22 California Code of Regulations, Sections 101158 and 102358, shall be reimbursed pursuant~~  
25 ~~to their established rate for the appropriate category in accordance with Section 18075, but not to~~  
26 ~~exceed 90 percent of the maximum payment rate for family child care homes. All other providers-~~  
27 ~~who establish a rate pursuant to Section 18074.3 of this subchapter shall be reimbursed pursuant to~~  
28 ~~their established rate for the appropriate category in accordance with Section 18075, but not to~~  
29 ~~exceed 90 percent of the maximum payment rate for family child care homes.~~

30 Contractors shall use the age of the child, the certified need for CHILD care, and the ~~APPLICABLE~~  
31 facility type to ~~LOCATE~~ IDENTIFY the applicable regional market RATE ceiling.

32 (a) The applicable facility type shall be determined as follows:

33 (1) Child care center RATE ceilings shall be used for those providers who:

34 (A) Operate licensed centers; or

35 (B) Are public or private schools operating extended day programs; or

36 (C) Operate centers on tribal or federal lands; or

1 (D) Operate PUBLIC recreation programs AS DEFINED IN EXEMPT FROM LICENSURE  
2 PURSUANT TO Health and Safety Code Section 1596.792(G) AND THAT MEET THE  
3 REQUIREMENTS FOR PARTICIPATION IN THE ALTERNATIVE PAYMENT PROGRAM,  
4 INCLUDING:

5 I. USING SIGN-IN/SIGN-OUT DOCUMENTS TO RECORD ATTENDANCE PURSUANT  
6 TO SECTION 18065;

7 II. PROVIDING ADULT SUPERVISION FOR ALL CHILDREN DURING ALL HOURS OF  
8 OPERATION; AND

9 III. ENSURING THAT ALL EMPLOYEES WHO HAVE CONTACT WITH CHILDREN  
10 HAVE COMPLETED CRIMINAL HISTORY BACKGROUND EXAMINATIONS  
11 COMPARABLE TO THE CRIMINAL HISTORY BACKGROUND EXAMINATIONS  
12 REQUIRED BY CHAPTER 3.35 OF DIVISION 2 OF THE HEALTH AND SAFETY CODE,  
13 COMMENCING WITH SECTION 1596.60.

14 (2) Family child care home RATE ceilings shall be used for those providers who:

15 (A) Operate licensed family child care homes; or

16 (B) PROVIDE CARE OPERATE A CHILD CARE BUSINESS in a home setting on tribal or  
17 federal land TO CHILDREN FROM MORE THAN ONE FAMILY WHO ARE UNRELATED TO THE  
18 PROVIDER.

19 (3) In-home/exempt RATE ceilings shall be used for all other providers. If no ceiling is provided for  
20 the applicable reimbursement rate category pursuant to Section 18075, the contractor shall determine a  
21 ceiling by multiplying the regional market RATE hourly ceiling by the hours of certified need.

22 (b) For children enrolled in kindergarten who are less than six years of age, the applicable age  
23 category shall be determined as follows:

24 (1) PROVIDERS IDENTIFIED IN (A)(3) ABOVE SHALL UTILIZE THE 6+ AGE CATEGORY.

25 (2) Providers identified in (a)(1) AND (A)(2) above shall utilize:

26 (A) The 6+ age category when the child is considered school-age for licensing purposes.

27 (B) The 2-5 age category when the child is considered preschool age for licensing purposes.

28 (2) PROVIDERS IDENTIFIED IN (A)(2) AND (A)(3) ABOVE SHALL UTILIZE:

29 (A) THE 6+ AGE CATEGORY WHEN THE CHILD IS SIX YEARS OF AGE OR OLDER.

30 (B) THE 2-5 AGE CATEGORY WHEN THE CHILD IS LESS THAN SIX YEARS OF AGE.

31 NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8265 and 8269,  
32 Education Code.

33  
34 § 18074.3. Establishment of Provider Reimbursement Rate FOR CENTERS AND FAMILY CHILD  
35 CARE HOMES.

36 Providers of child care and development services to eligible families shall provide documentation to



1 ~~the contractor of the rate(s) they charge. When a provider has not established a rate, as defined in Section~~  
2 ~~18075 of this subchapter, that corresponds to the certified need of the family, the contractor shall establish~~  
3 ~~the appropriate rate as follows:~~

4 ~~(a) Identify a rate category that corresponds to a provider's established rate.~~

5 ~~(b) Divide the provider's rate by the regional market rate ceiling for the appropriate rate category.~~

6 ~~This will yield a percentage.~~

7 ~~(c) Apply the resulting percentage to the regional market rate ceiling for the rate category to be used~~  
8 ~~for reimbursement. This shall be considered to be the provider's established rate for that category.~~

9 ~~This section applies to providers as described in Sections 18074.2 (a)(1) AND (a)(2), AND (A)(3)~~  
10 ~~**AND SHALL BECOME EFFECTIVE ON JULY 1, 2004.**~~

11 ~~(a) Providers of child care and development services to subsidized families shall provide~~  
12 ~~documentation to the contractor of all the rates they charge unsubsidized families. Providers who are~~  
13 ~~unable OR UNWILLING to meet the requirements of this section MAY ESTABLISH A RATE IN~~  
14 ~~ACCORDANCE WITH SHALL BE SUBJECT TO THE REQUIREMENTS OF Section 18074.4 OR~~  
15 ~~**SECTION 18074.5, AS APPLICABLE.**~~

16 ~~(b) Upon seeking to establish a rate, providers SUBJECT TO SUBCHAPTER 10 OF CHAPTER 19~~  
17 ~~OF THESE REGULATIONS shall provide documentation THAT 25 PERCENT OF THE CHILDREN~~  
18 ~~ENROLLED IN THE FACILITY ARE UNSUBSIDIZED **AS REQUIRED BY THIS SECTION.**~~

19 ~~(C) THE PROVIDER MUST SUPPLY DOCUMENTATION FOR EACH RATE PAID BY~~  
20 ~~UNSUBSIDIZED FAMILIES FOR A CUMULATIVE PERIOD OF AT LEAST THREE OF THE~~  
21 ~~PRECEDING 12 MONTHS. IF PROVIDERS HAVE MORE THAN ONE RATE FOR~~  
22 ~~UNSUBSIDIZED FAMILIES, PROVIDERS SHALL IDENTIFY TO THE CONTRACTOR BY AGE~~  
23 ~~GROUP AND HOURS OF CARE EACH RATE USED BY UNSUBSIDIZED FAMILIES AND SHALL~~  
24 ~~IDENTIFY THE RATE MOST COMMONLY USED BY UNSUBSIDIZED FAMILIES. IF THE~~  
25 ~~PROVIDER HAS BEEN OPERATING FOR LESS THAN THREE MONTHS DURING THE~~  
26 ~~PRECEDING 12 MONTHS, THE PROVIDER MUST SUPPLY DOCUMENTATION COVERING~~  
27 ~~THE PERIOD OF TIME THAT THE PROVIDER HAS BEEN OPERATING. IF THE PROVIDER~~  
28 ~~HAS A VALID LICENSE PURSUANT TO TITLE 22 CALIFORNIA CODE OF REGULATIONS,~~  
29 ~~THE CONTRACTOR SHALL ASSUME THAT THE PROVIDER HAS BEEN CONTINUOUSLY~~  
30 ~~OPERATING SINCE THE DATE THE LICENSE WAS ISSUED, UNLESS EVIDENCE IS~~  
31 ~~PROVIDED THAT DEMONSTRATES THAT THE PROVIDER OPERATED FOR A SHORTER~~  
32 ~~PERIOD.~~

33 ~~**(1) THE PROVIDER SHALL SUPPLY DOCUMENTATION FOR EACH RATE PAID BY**~~  
34 ~~**UNSUBSIDIZED FAMILIES. IF PROVIDERS HAVE MORE THAN ONE RATE FOR**~~  
35 ~~**UNSUBSIDIZED FAMILIES, PROVIDERS SHALL IDENTIFY TO THE CONTRACTOR EACH**~~  
36 ~~**RATE USED BY UNSUBSIDIZED FAMILIES, AND THE MOST COMMONLY USED RATE**~~

1 **BY AGE GROUP AND TIME BASIS.**

2 **(2) DOCUMENTATION FOR EACH RATE PAID BY UNSUBSIDIZED FAMILIES SHALL**  
3 **BE PROVIDED FOR:**

4 **(A) AT LEAST THREE CONSECUTIVE MONTHS DURING THE PRECEDING 12**  
5 **MONTHS.**

6 **(B) THE PERIOD OF TIME THAT THE PROVIDER HAS BEEN OPERATING. ONLY IF**  
7 **THE PROVIDER HAS BEEN OPERATING FOR LESS THAN THREE CONSECUTIVE**  
8 **MONTHS DURING THE PRECEDING 12 MONTHS.**

9 **(3) IF THE PROVIDER HAS A VALID LICENSE PURSUANT TO TITLE 22 CALIFORNIA**  
10 **CODE OF REGULATIONS, THE CONTRACTOR SHALL ASSUME THAT THE PROVIDER**  
11 **HAS BEEN CONTINUOUSLY OPERATING SINCE THE DATE THE LICENSE WAS ISSUED,**  
12 **UNLESS EVIDENCE IS PROVIDED THAT DEMONSTRATES THAT THE PROVIDER**  
13 **OPERATED FOR A SHORTER PERIOD.**

14 ~~(D)(C)~~ The documentation required BY (B) shall be established by written policies adopted by the  
15 contractor.

16 ~~(E)(D)~~ Documentation shall consist of any ~~OR ALL~~ of the following:

17 (1) Written agreements signed by both the provider and a parent of unsubsidized children, including  
18 the hours of care, age of child, and ~~reimbursement~~ PAYMENT amount.

19 ~~(2) COPIES OF CANCELLED CHECKS TO THE PROVIDER ISSUED BY A PARENT OF~~  
20 ~~UNSUBSIDIZED CHILDREN SHOWING THE PERIOD COVERED BY THE PAYMENT~~  
21 **DECLARATIONS, SIGNED UNDER PENALTY OF PERJURY BY THE PARENT(S) OF**  
22 **UNSUBSIDIZED CHILDREN, INDICATING THE HOURS OF CARE, AGE OF CHILD, AND**  
23 **PAYMENT AMOUNT.**

24 (3) Copies of payment ledgers maintained by the provider that include the payment period.

25 (4) Documents retained for tax purposes by the provider showing the payment amount and the period  
26 covered by such payment.

27 (5) Any other documentation specified in the written policies of the contractor that is reasonably  
28 related to verification of the rate paid by unsubsidized families.

29 ~~(F)(E)~~ ~~WRITTEN~~ **DECLARATIONS, ATTESTATIONS, OR AFFIRMATIONS** by the provider are  
30 not sufficient documentation for the purpose of establishing a rate.

31 ~~(G)(F)~~ The contractor may verify the documentation supplied by the provider. **THE**  
32 **VERIFICATION PROCESS MAY BE DONE** by comparing the rate in the documentation to the rate  
33 in the database maintained by the local resource and referral agency, by telephone contact with the  
34 provider, by visiting the facility operated by the provider, or by other means as established in the written  
35 policies of the contractor. **CONTRACTORS MAY REQUEST DOCUMENTATION OF THE**  
36 **RATE PAID BY MORE THAN ONE UNSUBSIDIZED FAMILY. IF SUCH DOCUMENTATION**

1 **IS REASONABLY RELATED TO VERIFYING THE RATE OR RATES PAID BY**  
2 **UNSUBSIDIZED FAMILIES.** Contractors shall retain a record of verification efforts and the results of  
3 those efforts.

4 **(G) THE DOCUMENTATION SHALL BE TREATED AS CONFIDENTIAL INFORMATION**  
5 **AND MAINTAINED BY THE CONTRACTOR IN A SECURE LOCATION. ONLY**  
6 **AUTHORIZED EMPLOYEES OF THE CONTRACTOR, AND AUTHORIZED EMPLOYEES**  
7 **OF THE DEPARTMENT AND THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES**  
8 **WILL HAVE ACCESS TO THE DOCUMENTATION.**

9 (h) In each county, all agencies operating pursuant to Article 15.5 of Chapter 2 of Part 6 of Division 1  
10 of the Education Code shall develop a single policy regarding the documentation required in ~~§~~Subsections  
11 (b) through (f) above AND THE TRANSFER OF DOCUMENTATION BETWEEN AGENCIES TO  
12 FACILITATE PROVIDER REIMBURSEMENT. Transfer of a family between agencies or stages of  
13 CalWORKs child care in the same county shall not be delayed or refused due to differences in policy  
14 regarding rate documentation.

15 (i) When none of the provider's established rates correspond to the certified need of the family, the  
16 contractor shall establish a derived rate as follows:

17 (1) Identify the rate category that corresponds to the provider's most commonly used established rate.

18 (2) Divide the provider's most commonly used established rate by the regional market **RATE** ceiling  
19 for the same rate category. This will yield a percentage.

20 (3) Apply the resulting percentage to the regional market **RATE** ceiling for the rate category to be  
21 used for reimbursement. This shall be considered the derived rate for that category.

22 (j) Reimbursement shall be the lesser of the amount the provider would charge unsubsidized families  
23 for the same hours of child care or the derived rate determined by subsection ~~(h)~~(I) above.

24 (k) If the family's need for care can be met by more than one rate category as defined in Section  
25 18075, the contractor shall determine the derived rate in the category that will yield the lowest  
26 reimbursement.

27 NOTE: Authority cited: Sections **8222, 8265, 8266.5, ~~8625~~ 8269, and 8357**, Education Code. Reference:  
28 Sections **8222, 8265, 8266.5, 8269, and 8357**, Education Code.

29  
30 **§ 18074.4. Establishment of PROVIDER Reimbursement Rate FOR CENTERS AND FAMILY**  
31 **CHILD CARE HOMES Utilizing the Comparable Local Rate.**

32 This section applies to providers described in Sections 18074.2(a)(1),(a)(2), and (A)(3), who are unable  
33 **OR UNWILLING** to establish a rate pursuant to Section 18074.3. **THIS SECTION SHALL**  
34 **BECOME EFFECTIVE ON JULY 1, 2004.**

35 (a) Services provided by an agency utilizing a center-based contract with the Department shall be  
36 reimbursed at the agency's contract rate OR THE AGENCY'S ESTABLISHED RATE THAT

1 CORRESPONDS TO THE CERTIFIED NEED FOR CARE.

2 (b) For all other providers, the contractor shall determine a comparable local rate for the provider's  
3 services that corresponds to the family's certified need for care.

4 (c) To determine the comparable local rate, the contractor shall randomly select AT LEAST five  
5 reimbursement rates established pursuant to Section 18074.3 and currently in use by providers operating  
6 the same type of facility in the same or comparable zip codes. If five examples of rates established  
7 pursuant to Section 18074.3 are not available in the same or comparable zip codes, the contractor shall  
8 select AT LEAST five established rates in the same county or region that correspond to the subsidized  
9 family's certified need for care.

10 (d) The contractor shall calculate the average of the FIVE rates selected pursuant to subsection (c).  
11 This shall be the comparable local rate. Contractors shall retain documentation of the rates selected and  
12 computations performed pursuant to this subsection.

13 (e) TO DETERMINE THE AMOUNT OF REIMBURSEMENT, ~~¶~~The contractor shall  
14 REIMBURSE USE the provider's requested rate UP TO OR the comparable local rate, WHICHEVER  
15 IS LOWER.

16 (F) FOR THE DURATION OF EACH FISCAL YEAR, CONTRACTORS SHALL APPLY  
17 THE SAME COMPARABLE LOCAL RATES THROUGHOUT THE ZIP CODES, COUNTIES,  
18 OR REGIONS FOR WHICH THE COMPARABLE LOCAL RATES HAVE BEEN  
19 DETERMINED. IN EACH COUNTY, ALL AGENCIES OPERATING PURSUANT TO  
20 ARTICLE 15.5 OF CHAPTER 2 OF PART 6 OF DIVISION 1 OF THE EDUCATION CODE  
21 AND REIMBURSING PROVIDERS LOCATED IN THE SAME ZIP CODE(S) SHALL USE THE  
22 SAME COMPARABLE LOCAL RATE.

23 ~~¶~~(G) If the family's certified need for care can be met by more than one rate category, as defined in  
24 Section 18075, the contractor shall UTILIZE, WHENEVER POSSIBLE, CALCULATE THE  
25 COMPARABLE LOCAL RATE IN the rate category that will yield the lowest reimbursement.

26 NOTE: Authority cited: Sections 8222, 8265, 8266.5, 8269, and 8357, Education Code. Reference:  
27 Sections 8222, 8265, 8266.5, 8269, and 8357, Education Code.

28  
29 § 18074.5 Establishment of HOURLY Reimbursement Rate for In-Home/Exempt Providers.

30 This section applies to providers as described in Section 18074.2(a)(3). THESE PROVIDERS  
31 SHALL BE REIMBURSED PURSUANT TO THEIR REQUESTED RATE UP TO THE REGIONAL  
32 MARKET CEILING FOR THE APPROPRIATE RATE CATEGORY, NOT TO EXCEED THE  
33 MAXIMUM SUBSIDY AMOUNT. IF SUFFICIENT DATA ARE UNAVAILABLE TO  
34 CALCULATE A COMPARABLE LOCAL HOURLY RATE, THE PROVIDER SHALL BE  
35 REIMBURSED BASED ON THE LESSER OF THE IN-HOME/EXEMPT CEILING OR THE  
36 PROVIDER'S REQUESTED RATE.

1 NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Section 8265 and 8269,  
2 Education Code.

3  
4 *Renumber Section 18074.2(c) to Section 18074.6 to read:*

5 **§ 18074.6. DETERMINATION OF REIMBURSEMENT AMOUNT.**

6 ~~(c)~~ Services for subsidized families shall be reimbursed based on the lesser of the MAXIMUM  
7 SUBSIDY AMOUNT REGIONAL MARKET RATE CEILING, the established rate, or the derived  
8 rate, whichever is applicable. IF AN ESTABLISHED RATE OR DERIVED RATE IS  
9 UNAVAILABLE, REIMBURSEMENT SHALL BE BASED ON THE LESSER OF THE  
10 REGIONAL MARKET RATE CEILING, THE COMPARABLE LOCAL RATE, OR THE  
11 PROVIDER'S REQUESTED RATE.

12 **NOTE: AUTHORITY CITED: SECTIONS 8265 AND 8269, EDUCATION CODE.**

13 **REFERENCE: SECTIONS 8265 AND 8269, EDUCATION CODE.**

14  
15 **§ 18075. Reimbursement Rate Categories.**

16 Contractors shall reimburse providers in accordance with the following rate categories, up to the  
17 regional market rate ceiling for each category.:

18 (a) Hourly, which shall only be used for the following:

19 (1) ~~When a child's certified need for child care and development services is no more than 15 hours~~  
20 ~~per week and no more than six hours on any day within the week; A child's certified need for child care~~  
21 ~~of less than 30 hours per week and less than six hours on any day; or~~

22 (2) An unscheduled but documented need of less than six hours or less per occurrence, such as the  
23 parent's need to work overtime, that exceeds the child's certified need for child care and development  
24 services; or

25 (3) That portion of the child's certified need for child care and development services that exceeds  
26 52.5 hours per week and is not included in the provider's full-time weekly or full-time monthly rate. This  
27 provision applies only if the family utilizes no more than one provider to meet the child's entire need for  
28 child care and development services. Additional payment made under the hourly rate for this purpose  
29 cannot exceed the provider's full-time weekly or full-time monthly rate.

30 (b) Daily, which shall only be used for the following:

31 (1) ~~When a child's A certified need for child care and development services occurs on three days or~~  
32 ~~less each week for more than~~ of six hours or more per day; or

33 (2) An unscheduled but documented need of more than six hours or more per occurrence, such as the  
34 parent's need to work on a regularly scheduled day off, that exceeds the child's certified need for child  
35 care. and development services; or

36 (3) ~~The parent's variable work schedule lacks a pattern of recurring work days and days off on a~~

1 ~~weekly or monthly basis and, in the judgment of the contractor, prohibits the child's certified need for~~  
2 ~~child care and development services from being met by applying any other rate in this section.~~

3 (c) Part-time weekly, which shall only be used when ~~the child's a certified need for child care and~~  
4 ~~development services is greater than 15 hours per week and no more less than 30 hours per week and the~~  
5 ~~need for child care and development services occurs on at least three days per week.~~

6 (d) Full-time weekly, which shall only be used when ~~the child's a certified need for child care and~~  
7 ~~development services is greater than 30 hours or more per week.~~

8 (e) Part-time monthly, which shall only be used ~~when~~ for the following:

9 (1) ~~The child's A certified need for child care and development services is greater than 15 hours but~~  
10 ~~no more of less than 30 hours per week and the that need for child care and development services occurs~~  
11 ~~in every week of the month; or~~

12 (2) ~~The child's A certified need for child care and development services averages more than 15 hours~~  
13 ~~but no more less than 30 hours per week when calculated by dividing the total number of hours of~~  
14 ~~services needed in the month by 4.33, and the that need for child care and development services occurs in~~  
15 ~~every week of the month.~~

16 (f) Full-time monthly, which shall only be used ~~when~~ for the following:

17 (1) ~~The child's A certified need for child care and development services is of more than 30 hours or~~  
18 ~~more per week and the that need for child care and development services occurs in every week of the~~  
19 ~~month; or~~

20 (2) ~~The child's A certified need for child care and development services averages more than 30 hours~~  
21 ~~or more per week when calculated by dividing the total number of hours of services needed in the month~~  
22 ~~by 4.33, and the that need for child care and development services occurs in every week of the month.~~

23 NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8220, 8222, and  
24 8357, Education Code.

25  
26 **§ 18075.1. Rate Adjustment for Evenings and/or Weekends for Licensed Providers.**

27 (a) This section applies only to ~~services reimbursed reimbursement to licensed providers, and only~~  
28 ~~when the contractor is reimbursing a provider using a category specified in Section 18075(c), (d), (e), or~~  
29 ~~(f), except this section shall not apply to reimbursement provided pursuant to the hourly rate defined in~~  
30 ~~Section 18075(a).~~

31 (b) When ~~the child's a~~ **LICENSED PROVIDER IS MEETING THE** certified need for child care  
32 ~~and development services occurs between the~~ **THAT** includes hours during the period from ~~of~~ 6:00 p.m.  
33 ~~and to 6:00 a.m. on weekdays, or any time on weekends day of the week or from 6 a.m. Saturday to 6:00~~  
34 ~~a.m. Monday, the contractor shall multiply the provider rate as follows regional market RATE ceiling for~~  
35 ~~the applicable rate category by the appropriate adjustment factor as follows:~~

36 (1) By 1.25 when ~~more than~~ 50 percent or more of the certified need for child care ~~and development~~

1 ~~services~~ occurs during this period.

2 (2) By 1.125 when **AT LEAST TEN PERCENT, BUT** ~~more than 25 percent but no more less than~~  
3 50 percent of the certified need for child care and development services occurs during this period.

4 (c) Reimbursement to the provider shall be the lesser of the amount the provider charges unsubsidized  
5 families for the same hours of child care, or the maximum subsidy amount as determined pursuant to  
6 Subsection (b) above.

7 NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8220, 8222, and  
8 8357, Education Code.

9  
10 **§ 18075.2. Rate Adjustment for Children with Exceptional Needs.**

11 (a) When child care and development services are provided to a child with exceptional needs, the  
12 contractor shall multiply the ~~provider rate~~ **LESSER OF THE REGIONAL MARKET RATE**  
13 **CEILING OR THE RATE DETERMINED PURSUANT TO SECTION 18074.3 OR 18074.4 OR**  
14 **THE regional market ceiling, WHICHEVER IS LOWER,** ~~FOR THE APPLICABLE RATE~~  
15 ~~CATEGORY~~ by only one of the following:

16 (1) By 1.2, when the child has exceptional needs as defined in Education Code Section 8208(1).

17 (2) By 1.5, when the child is severely disabled as defined in Education Code Section 8208(x).

18 (b) Contractors shall apply this ~~rate~~ adjustment only when there is documentation that additional  
19 services and/or accommodations for that particular child are being provided, and such services and/or  
20 accommodations result in an on-going financial impact on the provider.

21 NOTE: Authority cited: Sections 8222, 8265, 8265.5, and 8269, Education Code. Reference: Sections  
22 8208(1) and 8208(x), Education Code.

23  
24 **§ 18076. Limitations on Reimbursement.**

25 (a) Single Rate Category. Contractors shall only ~~provide reimbursement~~ reimburse providers using a  
26 single rate category as defined in Section 18075 ~~unless using more than one category results in a lower~~  
27 ~~amount of reimbursement than would result if using a single category.~~

28 (b) Notwithstanding ~~§~~ Subsection (a), contractors may provide reimbursement to a provider using both  
29 a daily and an hourly rate when:

30 (1) No single rate established by the provider corresponds to the family's need for care; and

31 (2) The provider has established a rate in both daily and hourly rate categories pursuant to Section  
32 18074.3; and

33 (3) Using both rates is consistent with the rates the provider charges unsubsidized families needing  
34 similar hours of care.

35 ~~(b)(c)~~ Notwithstanding ~~§~~ Subsection (a), when Sections 18075 (a)(2), 18075(a)(3), or 18075(b)(2) are  
36 applicable, contractors may reimburse providers for those categories in addition to the applicable single

1 category.

2 ~~(c) Contractors may reimburse a child care provider using a rate that exceeds the regional market rate~~  
3 ~~ceilings when there are no more than two child care providers in the region offering services meeting the~~  
4 ~~needs of the subsidized family pursuant to Education Code section 8263, and the provider has established~~  
5 ~~a rate pursuant to Section 18074.3 of this article that exceeds the ceilings.~~

6 ~~(d) Contractors shall adopt a policy governing absences that includes reasonable limitations for~~  
7 ~~reimbursement purposes.~~

8 ~~(d) Contractors shall not be bound by the regional market RATE ceilings when there are, in the~~  
9 ~~region, no more than two child care providers of the type needed by the subsidized family. For the~~  
10 ~~purposes of this Subsection, types of providers are licensed child care centers, licensed family child care~~  
11 ~~homes, and exempt providers.~~

12 NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8222, 8266.5,  
13 and 8357, Education Code.

14  
15 **§ 18076.1. Provider Payment Other Reimbursable Fees.**

16 ~~(a) A family may choose a child care provider who charges a higher fee than the contractor's~~  
17 ~~maximum payment rate.~~

18 ~~(b) In such cases, the family shall be responsible for the difference between the rate charged by the~~  
19 ~~provider and the contractor's maximum payment rate.~~

20 ~~(c) The contractor shall pay reimburse fees charged by providers such as registration, materials,~~  
21 ~~and/or and insurance fees charged by providers, either in a single payment or prorated over a 12-month~~  
22 ~~period, as long as:~~

23 ~~(1) The same fee is charged to nonsubsidized families, provider documents that the contractual terms~~  
24 ~~used for services to unsubsidized families require payment for such fees; and~~

25 ~~(2) The fees or prorated portion thereof, plus the rate established for the provider pursuant to this~~  
26 ~~subchapter, does do not exceed the MAXIMUM PAYMENT RATE REGIONAL MARKET RATE~~  
27 ~~RATE CEILING MAXIMUM SUBSIDY AMOUNT.~~

28 NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8222, 8266.5,  
29 and 8357, Education Code.

30  
31 **§ 18076.2. Reimbursement for Absences Reimbursable Hours of Care.**

32 (a) This section does not apply to reimbursement for services provided pursuant to Sections  
33 18075(a)(2), and (a)(3), and Sections 18075(b)(2) and (b)(3), of this Subchapter.

34 (b) Reimbursable hours of child care and development services for the child's regular provider shall  
35 include:

36 (1) Time that a child's absence is deemed excused pursuant to Section 18066 and the time the child is



1 absent when the contractual terms used by the provider for services to ~~nonsubsidized~~ ~~unsubsidized~~  
2 families require payment for such absences. Reimbursement for an excused absence based on the child's  
3 illness shall not occur in lieu of providing accommodations for the child pursuant to the applicable  
4 provisions of the Americans with Disabilities Act.

5 (2) Time that the provider has a paid ~~HOLIDAY OR VACATION~~ **DAY OF NON-OPERATION**  
6 and can provide documentation that the contractual terms used by the provider for services to  
7 ~~nonsubsidized~~ ~~unsubsidized~~ families require payment for such ~~HOLIDAYS OR VACATIONS~~ **DAY(S)**  
8 **OF NON-OPERATION**. The number of reimbursable paid ~~HOLIDAYS OR VACATIONS~~ **DAY(S)**  
9 **OF NON-OPERATION** shall be limited to a maximum of ten days per fiscal year per provider.

10 (c) Reimbursable hours ~~of child care and development services~~ for an eligible alternate provider shall  
11 include:

12 (1) Time that ~~child care and development~~ services are provided when the regular provider has a paid  
13 ~~HOLIDAY OR VACATION~~ **DAY OF NON-OPERATION** and the parent has to obtain an alternate  
14 provider to meet the certified need for child care ~~and development services~~. Payment to an alternate  
15 provider when the regular provider has a paid ~~HOLIDAY OR VACATION~~ **DAY OF NON-**  
16 **OPERATION** shall be limited to ten days per child per fiscal year.

17 (2) Time that child care ~~and development~~ services are provided by an eligible alternate provider when  
18 the child is ill and the parent has to obtain care from an eligible alternate provider. Payment to an  
19 alternate provider when the child is ill shall be limited to a maximum of ten days per child per fiscal year.  
20 Contractors may reimburse an alternate provider in excess of ten days per year based on the illness of the  
21 child if the parent provides a physician ~~STATEMENT THAT THE CHILD'S ILLNESS POSES A RISK~~  
22 ~~TO OTHER CHILDREN~~ **VERIFICATION**.

23 (d) ~~The contractor shall not reimburse for child care and development services when~~ Reimbursable  
24 hours do not include:

25 (1) The ~~child is attending school~~ scheduled instructional minutes of a public educational program  
26 available to a school-age child, or a private school in which the child is enrolled and attending.

27 (2) ~~The~~ Time when the child is receiving any other child care and development services ~~except as~~  
28 ~~specified in 18076.2(c)(2)~~.

29 (3) ~~For school age children, when services are provided during the usual hours of operation of a local~~  
30 ~~public school available to the child, or a private school that the family chooses to attend, unless the child~~  
31 ~~is receiving services from an alternate provider due to illness as specified in subsection 18076.2(b)~~. Days  
32 on which the provider is not open to provide services, except as specified in subsection (b)(2). A  
33 contractor shall reimburse an alternate provider when the regular provider is not open to provide services  
34 and the subsidized family must obtain an alternate provider during the certified need for child care.

35 NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Section 8208(e), 8263,  
36 8266.5, and 8357, Education Code.

1 **§ 18076.3. REIMBURSEMENT TO MULTIPLE PROVIDERS.**

2 **(A) EXCEPT FOR REIMBURSEMENT PURSUANT TO SECTION 18076.2(C),**  
3 **CONTRACTORS SHALL REIMBURSE ONLY ONE PROVIDER OF CHILD CARE SERVICES**  
4 **PER CHILD WHEN THE HOURS OF OPERATION OF THE CHILD CARE PROVIDER**  
5 **SELECTED BY THE PARENT CAN ACCOMMODATE THE CERTIFIED NEED FOR CHILD**  
6 **CARE. CONTRACTORS MAY REIMBURSE MORE THAN ONE PROVIDER PER CHILD**  
7 **WHEN THE HOURS OF OPERATION OF THE FIRST PROVIDER CANNOT**  
8 **ACCOMMODATE THE CERTIFIED NEED FOR CHILD CARE.**

9 **(B) NOTWITHSTANDING SUBSECTION (A), WHEN A FAMILY'S FIRST PROVIDER IS**  
10 **NOT A LICENSED CENTER AND THE PARENT ALSO CHOOSES A LICENSED CENTER**  
11 **FOR THE SPECIFIC PURPOSE OF PROVIDING THE CHILD WITH LARGE GROUP**  
12 **SCHOOL READINESS EXPERIENCES, THE CONTRACTOR MAY ALSO REIMBURSE THE**  
13 **SERVICES PROVIDED BY THE LICENSED CENTER PROVIDER.**

14 **(C) CONTRACTORS WHO PAY MULTIPLE PROVIDERS PURSUANT TO THIS**  
15 **SECTION SHALL NOT PAY MORE THAN ONE PROVIDER FOR THE SAME PORTION OF**  
16 **A CHILD'S CERTIFIED NEED FOR CHILD CARE.**

17 **NOTE: AUTHORITY CITED: SECTIONS 8265 AND 8269, EDUCATION CODE.**

18 **REFERENCE: SECTIONS 8265 AND 8269, EDUCATION CODE.**

19  
20 **Subchapter 10. Alternative Payment Program**

21 **Article 2. Policies and Procedures**

22 *Delete Section 18220.5:*

23 **§ 18220.5. Eligible Providers.**

24 ~~(A) CONTRACTORS SHALL NOT REIMBURSE CHILD CARE SERVICES FOR FAMILIES~~  
25 ~~WHO CHOOSE LICENSED PROVIDERS WHO DO NOT SERVE AT LEAST 25 PERCENT~~  
26 ~~UNSUBSIDIZED CHILDREN UNLESS THE PROVIDER REQUESTS AND THE CONTRACTOR~~  
27 ~~GRANTS A WAIVER OF THIS REQUIREMENT.~~

28 ~~(B) THE PROVIDER MAY REQUEST A WAIVER UNDER THE FOLLOWING~~  
29 ~~CIRCUMSTANCES:~~

30 ~~(1) THERE IS A LACK OF LICENSED FACILITIES IN LOCATIONS CONVENIENT TO THE~~  
31 ~~SUBSIDIZED FAMILY; OR~~

32 ~~(2) THERE IS A LACK OF FACILITIES DESCRIBED IN SUBSECTION (A) OF SECTION~~  
33 ~~18074.2 THAT ARE IN A LOCATION CONVENIENT TO THE SUBSIDIZED FAMILY AND HAVE~~  
34 ~~RATES ESTABLISHED PURSUANT TO SECTION 18074.3; OR~~

35 ~~(3) THE SPECIFIC FACILITY CHOSEN BY THE SUBSIDIZED FAMILY IS CAPABLE OF~~  
36 ~~MEETING THE SPECIAL NEEDS OF THE CHILD, AND OTHER FACILITIES WITH RATES~~

1 ESTABLISHED PURSUANT TO SECTION 18074.3 WOULD BE LESS CAPABLE OF MEETING  
2 THOSE NEEDS.

3 (C) UPON THE PROVIDER'S REQUEST FOR A WAIVER PURSUANT TO SUBSECTION (B)  
4 ABOVE, THE CONTRACTOR SHALL MAKE A WRITTEN DETERMINATION OF WHETHER  
5 THE CIRCUMSTANCES JUSTIFY GRANTING OF THE WAIVER. THE CONTRACTOR SHALL  
6 MAINTAIN WRITTEN DETERMINATIONS IN THE FILES OF THE AGENCY.

7 NOTE: Authority cited: Section 8222.5, Education Code. Reference: Section 8222.5, Education Code.

8  
9 *Add Section 18220.6 to read:*

10 **§ 18220.6. Provider Rate. Family Co-Payment.**

11 (a) A family may choose a child care provider regardless of the provider's rate.

12 (b) When a provider's rate and other allowable charges exceed the maximum subsidy amount, the  
13 family shall be responsible to pay the provider the difference between the provider's rate and the  
14 maximum subsidy amount. This shall be considered the family's co-payment. The contractor shall not be  
15 responsible for collecting the family's co-payment.

16 NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Section 8265 and 8269,  
17 Education Code.

18  
19 **Chapter 19.5 CalWORKs and Child Care and Development Programs**

20 **Subchapter 2. CalWORKs Stage 2 Child Care Program**

21 **Article 4. Provider Payments and Parent Fees**

22 *Amend Section 18413 to read:*

23 **§ 18413. Provider Payments.**

24 (a) The contractor shall ~~pay~~ reimburse each provider no more than ~~the~~ that provider charges  
25 nonsubsidized ~~nonsubsidized~~ families, and not to exceed the applicable regional market rate ceiling  
26 maximum subsidy amount established pursuant to statute as defined in Section 18074.1. ~~1.5 standard~~  
27 ~~deviations above the mean cost of care for that region established by the most recent regional market rate~~  
28 ~~survey. For providers that serve only subsidized children, the contractor shall pay a rate that is not to~~  
29 ~~exceed 1.5 standard deviations above the mean market rate established by the most recent regional market~~  
30 ~~rate survey. When there are no more than two child care providers in the region providing the type of~~  
31 ~~care needed by the family, the contractor is not bound by the maximum payment rate for that region.~~

32 (b) The contractor shall calculate the payment for child care on a monthly, weekly, daily, or hourly  
33 basis ~~depending on the family's needs and the contractual terms used by the provider to charge~~  
34 ~~nonsubsidized families for the same service. The payment basis shall not be calculated for the sole~~  
35 ~~purpose of financially benefiting the provider.~~

36 (c)~~(b)~~ Reimbursable hours of care shall include: work hours, commute hours, participation in county-

1 approved activities, and other eligible hours as approved by the contractor.

2 (1) Time necessary for the parent to travel between his/her work or work activity and the child care  
3 provider;

4 (2) Time that a child is absent when the contractual terms used by the provider for services to  
5 nonsubsidized families require payment for such absences; and

6 (3) Time that care is provided by another eligible provider when the child is ill or when the usual  
7 provider of care has a paid holiday at the time that the parent must work or attend a work activity.

8 (d) Contractors shall adopt a policy governing absences that include reasonable limitations for  
9 reimbursement purposes.

10 (e) The contractor shall pay registration fees charged by child care providers, as long as these fees are  
11 the same as those charged to nonsubsidized families for the same purpose and the registration fee together  
12 with the provider payment do not exceed the maximum payment rate.

13 NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8353 and 8357,  
14 Education Code.

15  
16 **Subchapter 3. CalWORKS Stage 3 Child Care Program**

17 **Article 4. Provider Payments and Parent Fees**

18 *Amend Section 18428 to read:*

19 **§ 18428. Provider Payments.**

20 (a) The contractor shall ~~pay reimburse~~ each provider no more than ~~the that~~ provider charges  
21 ~~nonsubsidized unsubsidized~~ families, and not to exceed ~~the applicable regional market rate ceiling~~  
22 ~~maximum subsidy amount established pursuant to statute as defined in Section 18074.1. 1.5 standard~~  
23 ~~deviations above the mean cost of care for that region established by the most recent regional market rate~~  
24 ~~survey. For providers that serve only subsidized children, the contractor shall pay a rate that is not to~~  
25 ~~exceed 1.5 standard deviations above the mean market rate established by the most recent regional market~~  
26 ~~rate survey. When there are no more than two child care providers in the region providing of the type of~~  
27 ~~care needed by the family, the contractor is not bound by the maximum payment rate for that region.~~

28 (b) The contractor shall calculate the payment for child care on a monthly, weekly, daily, or hourly  
29 basis depending on the family's needs and the contractual terms used by the provider to charge  
30 nonsubsidized families for the same service. The payment basis shall not be calculated for the sole  
31 purpose of financially benefiting the provider.

32 (e)(b) Reimbursable hours of care shall include: work hours, commute hours, participation in county-  
33 approved activities, and other eligible hours as approved by the contractor.

34 (1) Time necessary for the parent to travel between his/her work or work activity and the child care  
35 provider;

36 (2) Time that a child is absent when the contractual terms used by the provider for services to

1 ~~nonsubsidized families require payment for such absences; and~~

2 ~~(3) Time that care is provided by another eligible provider when the child is ill or when the usual~~  
3 ~~provider of care has a paid holiday at the time that the parent must work or attend a work activity.~~

4 ~~(d) Contractors shall adopt a policy governing absences that include reasonable limitations for~~  
5 ~~reimbursement purposes.~~

6 ~~(e) The contractor shall pay registration fees charged by child care providers, as long as these fees are~~  
7 ~~the same as those charged to nonsubsidized families for the same purpose and the registration fees~~  
8 ~~together with the provider payment do not exceed the maximum payment rate.~~

9 NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8354 and 8357,  
10 Education Code.

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