

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, California 95814



August 8, 2006

ALL COUNTY LETTER NO. 06-29

TO: ALL COUNTY WELFARE DIRECTORS  
 ALL COUNTY CHILD CARE COORDINATORS  
 ALL WELFARE-TO-WORK 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: CHANGES TO IN/OUT OF MARKET RATES, 75/25 RULE, STATE MEDIAN INCOME (SMI) AND FAMILY FEE SCHEDULE

REFERENCE: ASSEMBLY BILL (AB) 1808, CHAPTER 75, STATUTES OF 2006; EDUCATION CODE SECTIONS 8222 and 8447; MANAGEMENT BULLETIN 06-13, CALIFORNIA DEPARTMENT OF EDUCATION (CDE), CHILD DEVELOPMENT DIVISION

**PURPOSE**

The purpose of this letter is to transmit the changes affecting in/out of market reimbursement rates for licensed providers, family income eligibility limits based on new SMI figures, and the updated family fee schedule. These changes have occurred as a result of the passage of AB 1808, Chapter 75, Statutes of 2006, which amended Sections 8222 and 8447 of the Education Code and became effective on July 12, 2006.

**IN/OUT OF MARKET RATES**

Federal law requires that subsidized families have equal access to child care, and provider reimbursement rates for subsidized child care should be comparable to those paid by unsubsidized families; that is, payment rates should reflect the child care market in that area. CDE previously released regulations stating that reimbursement for subsidized child care shall not exceed the rate charged to private paying clients for the same service. These regulations also established a method for determining reimbursement rates for providers who did not or were unable to furnish a rate that met the requirements of the Education Code. Prior to the release of these regulations, providers were not required to provide proof of the amount they charge private-pay families. Senate Bill (SB) 1104 (Chapter 229, Statutes of 2004) suspended two sections of the regulations (Sections 18074.3 and 18074.4 of the Title V California Code of Regulations) until July 1, 2005. The suspension was extended until July 1, 2006, through SB 68 (Chapter 78, Statutes of 2005).

AB 1808 amended Section 8222 of the Education Code to require Alternative Payment Programs (APPs) to reimburse licensed child care providers up to the rate ceiling as set forth in statute. APPs are also required to reimburse licensed providers for child care services provided to subsidized children at the same rate as non-subsidized families for the same services. If the provider serves only subsidized families, the APP is required to reimburse the provider based on the rate the provider establishes for prospective non-subsidized families.

Licensed providers of subsidized child care services are required to submit to the APP a copy of their rate sheets listing the amount charged for subsidized children, including any discount or scholarship policies, and a statement signed by the provider confirming that the rates charged for each subsidized child are equal to or less than the rates charged for each non-subsidized child. APPs are required to maintain a copy of the rate sheet and confirmation statement in the licensed provider's file. Licensed providers may update the rates for subsidized child care services once a year and are required to provide the updated information to the APP. Licensed providers are required to post their rates and discount or scholarship policies in a noticeable area next to their license within the facility.

To the extent county welfare departments (CWDs) are responsible for the verification of provider rates, these rules also apply to CWDs.

### **75/25 RULE**

AB 1808 repealed Section 8222.5 of the Education Code, thereby eliminating the requirement for providers to have at least 25 percent non-subsidized children in care in order to receive reimbursements for subsidized children.

### **SMI & FAMILY FEE SCHEDULE**

The Department of Finance (Finance) is responsible for annually updating the SMI amount for a family of four based on the best available data. The income limit for families to be eligible for subsidized child care is 75 percent of the SMI adjusted for family size. The SMI is also used to establish the amount a family is required to pay as their family fee. The SMI has been frozen since 2000.

AB 1808 amended Section 8447 of the Education Code to require CDE to update the family fee schedule based on the 2005 SMI as determined by Finance. CWDs are to use the new income ceiling table provided by CDE to determine a family's eligibility. The new income ceiling table can be found in CDEs Management Bulletin 06-13 or on the CDE website at:

<http://www.cde.ca.gov/sp/cd/ci/mb061306.asp>

A revised family fee schedule is currently being developed by CDE to reflect the updated family income eligibility limits. Until the new family fee schedule is released, CWDs are instructed to use the existing family fee schedule (September 2000 schedule). For families

whose income exceeds the family fee schedule due to the increase in income eligibility limits, CWDs are to use the maximum fee based on family size of the current fee schedule.

The family fee schedule applies to all subsidized child care programs except State Preschool and Bay Area Handicapped. Families with incomes below the minimum income level of the family fee schedule are not required to pay a family fee. In addition, families with at-risk children and families with children receiving child protective services may be exempt from paying a family fee. CWDs are to refer to All County Information Notice I-09-05 for instructions on family fee exemptions.

For further information on the assessment of family fees, refer to the California Code of Regulations, Title 5, Division 1, Chapter 19, Subchapter 3, Article 5.

**NOTICE OF ACTION (NOA)**

The CDSS Manual of Policies and Procedures (MPP), Chapter 47-420.3, specifies that CWDs shall notify clients whenever there is an approval, denial, change, or discontinuance in the amount of a child care subsidy. With the implementation of the changes described in this letter, it is likely that many clients' child care payments and family fees will be affected.

To provide timely notice to these individuals, CWDs shall issue NOAs to these clients at least ten days before the change in child care benefit occurs. A copy of the NA Back 9, Your Hearing Rights, must accompany each NOA. CWDs 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.

If you have any questions concerning this letter, please contact the Child Care Programs Bureau at (916) 657-2144.

Sincerely,

*Original Document Signed By:*

CHARR LEE METSKER  
Deputy Director  
Welfare to Work Division

c: CWDA  
CSAC