



The 2019 Legal Guide to Child Care Subsidies in California

Chapter 1: Overview of Child Care Subsidy Administration and Categories

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This manual offers an overview of California’s child care subsidy system for low income families. Child care subsidies are essential to help families afford the high cost of child care so that they can go to work and their children can thrive. Though many parents receive free child care from relatives or friends, and others pay the full cost of child care themselves, California has a long history of providing financial assistance to low income parents to enable them to access child care services. California uses child care subsidies to address multiple objectives: (1) parents’ interest in receiving financial help to afford safe, nurturing, culturally appropriate, high quality care for their children while the parents work, obtain training and education, or engage in other work-related activities; (2) children’s interest in being in safe environments where they can learn and develop while their parents work; and (3) the state’s interests in using available state and federal funding to ensure work supports for parents and school readiness for as many children as possible. In addition, California’s subsidy system attempts to balance

the financial needs of parents transitioning from welfare (CalWORKs) to work and the needs of other low-income families who have never received CalWORKs.

California has established a variety of subsidy programs in response to these evolving needs and as a result of multiple funding streams, each with different eligibility criteria and rules. The resulting complexity often makes it difficult for parents to navigate the child care subsidy system and for advocates to help families access and maintain child care. This manual attempts to organize and explain the law in an understandable format.

This manual provides information about California's largest child care subsidy programs, including CalWORKs child care Stages 1, 2, and 3, and various other child care subsidy programs administered by the California Department of Education.

While we hope this manual will answer questions and provide assistance, we welcome calls from advocates to discuss client-specific issues or to answer general questions. Legal services advocates can contact Child Care Law Center directly at info@childcarelaw.org.

1.1.1 ADMINISTRATION OF SUBSIDIZED CHILD CARE

This section provides a brief introduction to the state and local agencies that administer the various subsidies, followed by a description of the various categories of subsidized care.

All child care subsidy programs are administered on the state level by the Department of Education (CDE) with the exception of one voucher program – CalWORKs Stage 1 – which is administered at the state level by the Department of Social Services (DSS).¹ CDE administers CalWORKs Stages 2 and 3. Local administration of CalWORKs and non-CalWORKs child care subsidies varies by county, as described below.

1.2 IMPORTANT AGENCIES

The California Department of Education (CDE) and Department of Social Services (DSS) are the state agencies with responsibility for administering child care subsidies. Resource and Referral (R&R) agencies, Alternative Payment Programs, County Welfare

¹ Head Start is a program administered on the federal level by the HHS Administration for Children & Families which contracts directly with local Head Start Agencies. The state does not play a role in Head Start programs other than to encourage collaboration between state-subsidized child care agencies and Head Start programs.

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Departments (CWDs), contracted centers, and other local agencies also play a role. For a listing of agency websites, please see Appendix A.

1.2.1 California Department of Education

CDE oversees nearly all state-administered child care subsidy programs, with the exception of CalWORKs Stage 1, and also allocates funding for quality improvement activities across the state.

Child Development Division, a unit of CDE, administers all California subsidized child care except for CalWORKs Stage 1. General Child Care (contracted centers and family child care home education networks), the California State Preschool Program (contracted centers for 3 and 4 year olds), Alternative Payment Program (voucher), CalWORKs Stages 2 and 3 (voucher) and other child care subsidy programs are administered by CDD pursuant to the Education Code,² Title 5 of the California Code of Regulations,³ and sub-regulatory materials such as Management Bulletins and Funding Terms and Conditions.⁴ CDD establishes the rules that govern the child care subsidy programs for which it is responsible. CDD has no local public agencies analogous to county welfare departments; rather, CDD contracts with various local agencies – private nonprofits, private for-profits, school districts, and CWDs – to administer these programs on the local level.

Learning Support and Partnerships Division is a unit of CDE that administers two contracted after-school programs: the federally-funded California 21st Century Community Learning Centers Program and the state-funded After School Education and Safety Program (ASES).

1.2.2 California Department of Social Services

The California Department of Social Services (DSS) has two divisions that play a role in the administration of child care: the Welfare-to-Work Division administers CalWORKs cash assistance as well as Stage 1 of CalWORKs child care, and the Community Care Licensing Division.⁵ In addition, the Civil Rights Bureau of DSS is

² CAL. EDUC. CODE §§ 8350–8359.1.

³ CAL. CODE REGS. tit. 5, §§ 18400–18434.

⁴ CAL. DEP'T OF EDUC., ELCE MANAGEMENT BULLETINS, <http://www.cde.ca.gov/sp/cd/ci/allmbs.asp>; CAL. DEP'T OF EDUC., *Funding Terms and Conditions for Child Development Contracts*, SPECIALIZED PROGRAMS: CHILD DEVELOPMENT, <http://www.cde.ca.gov/sp/cd/> (follow “Contractor Information” hyperlink, follow “Funding Terms and Conditions” hyperlink).

⁵ For detailed information on child care licensing requirements and legal issues, see Child Care Law Center’s Licensing Manual, available at: <http://www.childcarelaw.org/>.

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responsible for accepting complaints about violations of civil rights in the receipt of benefits, including language access complaints.

Welfare-to-Work Division has many responsibilities related to the CalWORKs program, including administering CalWORKs Stage 1 child care. DSS establishes the rules and regulations,⁶ and administers Stage 1 of CalWORKs child care pursuant to provisions in both the Welfare and Institutions Code⁷ and the Education Code,⁸ regulations located in the Manual of Policies and Procedures,⁹ and in sub-regulatory materials including All County Letters and Information Notices.¹⁰

County welfare departments (CWDs) are responsible for administering Stage 1 child care subsidies on the local level, though many elect to subcontract with agencies that also administer Alternative Payment Program vouchers under contract with CDE. Visit the Welfare-to-Work Division's website at <http://www.cdss.ca.gov/cdssweb/PG138.htm> for more information. See Chapter 2 of this manual for detailed information about Stage 1. For a listing of the agencies in each county that administer CalWORKs Stages 1, 2 and 3, and other resources, see Chapter Appendix C.

Community Care Licensing Division (CCLD) is the unit of DSS that regulates all licensed child care providers regarding health and safety issues; CCLD is responsible for granting licenses to child care providers and enforcing California's licensing requirements, including the requirement that prospective providers undergo a criminal background check.¹¹ CCLD also has responsibility for the Trustline program, the criminal background check process required for Family, Friend and Neighbor care providers who serve subsidized families. CCLD inspects licensed family child care providers and child care centers before they open and periodically thereafter. Parents or others who believe a child care provider is violating licensing laws or regulations may call CCLD to file a complaint. Each time someone files a complaint alleging that a provider is violating licensing regulations, CCLD investigates the facility.¹²

Civil Rights Bureau is responsible for ensuring compliance by DSS with state and federal civil rights mandates governing equal and effective access to benefits and

⁶ CAL. EDUC. CODE § 8351.

⁷ CAL. WELFARE & INST. CODE §§ 11320–11329.5.

⁸ CAL. EDUC. CODE §§ 8350–59.1.

⁹ CAL. DEP'T OF SOC. SERVS., MANUAL OF POLICIES & PROCEDURES [hereafter "MPP"] § 47-101, *et seq.*

¹⁰ CAL. DEP'T OF SOC. SERVS., *Letters and Notices*, LETTERS/REGULATIONS (last visited Feb. 15, 2019), <http://www.cdss.ca.gov/inforesources/Letters-and-Notices>.

¹¹ CAL. HEALTH & SAFETY CODE § 1596.60(a).

¹² CAL. HEALTH & SAFETY CODE § 1596.853.

services. The bureau accepts complaints about violation of civil rights in accessing CalWORKs cash assistance or grants, subsidized child care, and other government benefits, including language access complaints. It receives annual civil rights plans from the counties and conducts compliance review site visits. See <http://www.cdss.ca.gov/civilrights/>.

1.2.3 Local Agencies

CDE contracts with private nonprofits, private for-profits, school districts, and county welfare departments to provide child care-related services. Often, the same local agency will have different types of CDE contracts; it is very common that agencies are both Resource & Referral (R&R) and Alternative Payment Programs. This can be confusing for subsidized parents and their advocates. It is helpful for advocates to understand the various roles that a local agency may play based on having multiple contracts with CDE. Although CDE contractors are directly administering a form of public assistance, with authority to deny or terminate care, they have traditionally viewed their role as supportive of families rather than adversarial. Advocates who develop relationships with their local CDE contractors may find some of these agencies are receptive to working with advocates to improve their systems and to achieve satisfactory informal resolutions for clients, depending on the issue and the contractor.

Resource & Referral Agencies (R&Rs) are generally private nonprofit organizations based in each of California's 58 counties that contract with CDE to provide information and referrals to anyone who inquires about the availability of child care providers¹³. The information is categorized by geographic location, age of children served, type of care provided, etc. R&Rs provide free referrals to families via a free statewide telephone number. R&Rs also assist prospective providers with the licensing process and the Trustline criminal background check, offer provider training, and coordinate community resources for the benefit of parents and local child care providers. Some large counties have more than one R&R agency. Find the R&R(s) serving families by visiting the website of the California Child Care Resource and Referral Network, <http://www.rnetwork.org/>

Alternative Payment Programs are agencies that contract with CDE to administer voucher-based child care subsidies. Generally, these agencies administer both CalWORKs Stages 2 and 3, and non-CalWORKs Alternative Payment Program vouchers. Those that administer CalWORKs child care subsidies work closely with their county

¹³ CAL. DEP'T OF EDUC., *Child Care and Development Programs*, SPECIALIZED PROGRAMS: CHILD DEVELOPMENT, <http://www.cde.ca.gov/sp/cd/op/cdprograms.asp>. See CAL. EDUC. CODE §§ 8210 *et seq.*; CAL. CODE REGS. tit. 5, §§ 18240 *et seq.*

welfare departments.¹⁴ Some Alternative Payment Programs also administer Stage 1 through contracts with their local CWD. In a few counties, the CWDs contract with CDE to act as Alternative Payment Programs in administering CalWORKs Stages 2 and 3 vouchers. While in many counties there is a single nonprofit that serves as both an R&R and Alternative Payment Program, in other counties there are multiple Alternative Payment Programs administering vouchers. Although regulated by CDE, Alternative Payment Programs have substantial discretion regarding many aspects of subsidy administration. To learn which Alternative Payment Programs are responsible for your community, see Appendix C or call your local R&R agency.

Contracted Child Care Programs are various local agencies, particularly nonprofit agencies and school districts. These agencies contract directly with CDE to provide child care services in center-based programs for subsidized children, including State Preschool and General Child Care. Some local child care agencies operate both voucher-based Alternative Payment Programs and CDE programs.

County Welfare Departments are the local governmental units that administer CalWORKs cash assistance and supportive services, including CalWORKs child care, Stage 1. Although regulated by DSS, they have substantial discretion regarding many aspects of Stage 1 administration. CWDs either administer Stage 1 child care programs themselves or contract with Alternative Payment Programs to do so. A few CWDs that administer Stage 1 also contract with CDE to administer CalWORKs Stages 2 and 3. For more information see Chapter 2, as well as Appendix C. For links to county websites, see Appendix A.

1.3 CATEGORIES OF SUBSIDIZED CHILD CARE

Child care subsidies can be categorized in several ways. One helpful way to visualize the structure of the subsidy programs is:

- VOUCHER-BASED PROGRAMS V. CONTRACTED PROGRAMS;
then, within the voucher programs,
 - CALWORKS V. NON-CALWORKS VOUCHERS; and
then, within the CalWORKs program,
 - STAGE 1 V. STAGES 2 AND 3.

1.3.1 Vouchers and Contracted Programs

¹⁴ CAL. EDUC. CODE § 8220; CAL. CODE REGS. tit. 5, § 18013(e).

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California's child care subsidy programs are either voucher-based or contracted. The distinction has to do with the subsidy's portability, that is, how easily families can use their subsidy to switch child care providers based on the type of subsidy they receive.

Voucher-based programs allow subsidized families to choose among available eligible child care providers, including licensed child care centers, licensed family child care homes, and child care providers who are exempt from licensing requirements which includes Family, Friend and Neighbor care and some public recreation programs. Child care subsidies are not true "vouchers" in the sense that families are not given certificates with a stated value that they use to purchase care from any possible provider. Rather, families are approved for a set number of hours of care, with an eligible provider and payment rate approved before their child care subsidy is certified. Payment is usually made directly to the provider by the local program administering the subsidy. Nevertheless, families with subsidy "vouchers" can choose from a wide range of providers and can move fairly easily from one provider to another. The largest voucher-based program is CalWORKs child care. The major non-CalWORKs voucher program is called "Alternative Payment Program". The only way for a subsidized family to access most licensed family child care and all informal Family, Friend and Neighbor care is if they have a voucher.

Contracted programs – CDE contracts directly with agencies to provide child care spaces in a particular child care program; these programs are usually a form of center-based child care, although CDE also contracts with groups of home-based licensed family child care providers associated with contracted centers called Family Child Care Home Education Networks (FCCHENs). Many of these centers and FCCHENs also serve private pay families. There are a variety of CDE child care programs, including State Preschool, General Child Care, and Migrant Child Care. Eligible low income families can access child care in a contracted program if an appropriate child care space is available. These contracted programs, often called "Title 5" programs based on the governing section of the California Code of Regulations, must meet stringent regulations governing program structure, quality, and health and safety requirements. Some parents prefer contracted settings because the programs are required to have an educational component and meet more rigorous licensing standards. Families applying for a subsidy can specify their interest in obtaining a child care space in a contracted Title 5 program for their child. Families with subsidy vouchers may use their vouchers to obtain care in a contracted center only if there is space available in addition to the center's contracted child care spaces.

There are a few significant differences in subsidy administration between contracted and voucher programs. Some CDE child care programs, such as State

Preschool, have additional age or other eligibility requirements. The payment rate for CDE child care programs is set by the state and, in recent years, has been lower than the rate ceiling for voucher programs which is more closely connected with rates in the private child care market. The most visible difference for families is that it is difficult to switch child care providers when they hold a child care space in a contracted center, and it is much easier to transfer between providers with a voucher.

1.3.2 Types of Voucher-Based Child Care Subsidies

Voucher-based subsidies can be divided into CalWORKs and non-CalWORKs programs.

1.3.2.1 CalWORKs Child Care Vouchers

CalWORKs is California's cash assistance program for low-income families. General issues related to CalWORKs assistance for child care and eligibility are beyond the scope of this manual. The Western Center on Law and Poverty's CalWORKs manual, available at <http://www.wclp.org>, is an excellent reference source for all CalWORKs issues.

When participants receiving CalWORKs cash assistance or grants work or participate in welfare-to-work activities, they are eligible for subsidized child care as a supportive service. CalWORKs child care is divided into three Stages that overlap to some extent. Legal services advocates are most likely to be familiar with CalWORKs Stage 1 child care because CalWORKs participants are initially approved for this form of voucher-based care administered by DSS. CDE administers CalWORKs Stages 2 and 3 as well as the non-CalWORKs voucher-based programs. Moving between Stages is supposed to be seamless, but clients have experienced disruptions in their child care when transitioning between the Stages of CalWORKs child care.

CalWORKs Stage 1 eligibility and process is explained in much greater detail in Chapter 2; CalWORKs Stages 2 and 3 are described in Chapter 3. Advocates experienced with the CalWORKs child care system know that the design and administration of this program has always posed challenges for families needing to get and maintain good, stable child care. Numerous, budget-cut driven changes to the CalWORKs program during the 2008-2012 recession dramatically reduced funding for all stages of CalWORKs child care and County Welfare Department budgets depended on CalWORKs participants' under-utilization of Stage 1 child care services. While restoration of the child care budget has begun to unfreeze these sources of child care assistance, individual and policy advocacy is needed. The following two chapters discuss some areas for advocacy, including assisting CalWORKs parents in understanding and

exercising their appeal and hearing rights. When a CalWORKs family is unable to obtain an authorization for care, is authorized for less than the full hours of care needed, or care is being terminated, advocacy is both essential and impactful. For specific child care related questions, advocates should contact Child Care Law Center at: info@childcarelaw.org.

1.3.2.2 Non-CalWORKs Child Care Vouchers

In addition to administering CalWORKs Stages 2 and 3, CDE administers two other voucher-based child care subsidy programs for families that are not current or former participants in CalWORKs cash assistance or grant program: Alternative Payment Program (APP) and Migrant Alternative Payment Program. These programs are described in greater detail in Chapter 5.

1.4 DISTINGUISHING AMONG CHILD CARE SUBSIDIES

It is important for families and their advocates to know whether the family has a CalWORKs subsidy (which is always voucher-based), a non-CalWORKs voucher-based subsidy, or a contract-based child care subsidy because the applicable rules and procedures may vary dramatically or differ subtly depending on the type of subsidy a family is receiving.

If a family is receiving a CalWORKs subsidy, it also matters greatly which stage of CalWORKs child care the family is receiving as the rules often are very different between Stage 1, administered by DSS, and Stages 2 and 3 administered by CDE. The most dramatic differences involve appeal and hearing rights. See Chapter 7.

Many families know which type of child care subsidy they receive, and which agency administers their subsidy, but some do not, and it is not always easy to ascertain. One way to confirm the type of subsidy is to look at the correspondence a participant receives from the agency that administers the subsidy which might be a county welfare department, Alternative Payment Program, or contracted center (CDE child care). A Notice of Action (NOA)¹⁵ will generally identify the subsidy program, either stating the type of subsidy explicitly, or by program code (for example, C2AP for CalWORKs Stage 2;

¹⁵ Notices of Action are written statements that the agency paying for subsidized child care provides to its families when there is a change to the subsidy such as approval or denial, change in family fee, discontinuance or change in services, or reduction in payment. MPP § 47-420.3. See also CAL. DEP'T OF SOC. SERVS., ACIN 1-18-10 (2010), http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acin/2010/1-18_10.pdf (“[T]his letter is intended to serve as a reminder to CWDs that they must provide a written notice of action to a client whenever approvals, denials, discontinuances or other changes are made to the client’s child care subsidy authorization or payment.”). For Stages 2 and 3, see CAL. CODE REGS. tit. 5, §§ 18094–5, 18118, 18400(k)-(l).

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CCTR for contracted center). If the face of the NOA does not have this information, look at the section that explains hearing rights. Generally, it is easy to distinguish between CalWORKs Stage 1 and all other forms of subsidized child care because the first level of appeal for Stage 1 has a 90 day timeframe for initiating an appeal (the same as is provided for all appeals regarding CalWORKs cash assistance or grants), as compared with a 14 day timeframe for all CDE-administered programs. However, the CDE appeal information will not distinguish between CalWORKs Stages 2 and 3 and non-CalWORKs subsidies, other than in the program codes.

To confirm the type of child care subsidy your client receives, call the agency that administers the subsidy. For further assistance, contact Child Care Law Center, info@childcarelaw.org.

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This publication is intended to provide general information about the topic covered. It is made available with the understanding that the Child Care Law Center is not engaged in rendering legal or other professional advice. We believe it is current as of April 2019 but the law changes often. If you need legal advice, you should consult an attorney who can specifically advise or represent you.

This chapter is part of the following series:

The 2019 Legal Guide to Child Care Subsidies in California

- Chapter 1 - Overview of Child Care Subsidy Administration and Categories
- Chapter 2 - CalWORKs Child Care Subsidies, Stage 1
- Chapter 3 – California Department of Education Child Care Subsidies

Chapters covering payment procedures and other topics are underway. Please email us at info@childcarelaw.org if you do not find the answer you need here.