

# **California Department of Education**

## **PROGRAM REQUIREMENTS**

**FOR**

### **MIGRANT ALTERNATIVE PAYMENT PROGRAM**

**CMAP**

## **FISCAL YEAR 2016-2017**

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Posted May 2016

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## I. OPERATIONAL REQUIREMENTS

### A. The purpose of Child Care and Development services is as follows:

1. To provide a comprehensive, coordinated, and cost-effective system of child care and development services for children from infancy to 13 years of age and their parents, including a full range of supervision, health and support service through full-and part-time programs. (EC 8200 and 8201)
2. To encourage community-level coordination in support of child care and development services.
3. To provide an environment that is healthy and nurturing for all children in child care and development programs.
4. To provide the opportunity for positive parenting to take and development.
5. To reduce strain between parent and child in order to prevent abuse, neglect, or exploitation.
6. To enhance the cognitive development of children, with particular emphasis upon those children who require special assistance, including bilingual capabilities to attain their full potential.
7. To establish a framework for the expansion of child care and development services.
8. To empower and encourage parents and families of children who require child care services to take responsibility to review the safety of the child care program or facility and to evaluate the ability of the program or facility to meet the needs of the child.

### B. The California Migrant Alternative Payment Program

1. The state-level coordination of all agencies that offer services to migrant children and their families and state-level coordination of existing health funds for migrants. (EC 8230)
2. The Superintendent shall develop appropriate migrant child care and development programs, quality indicators and the following:
  - a. Social services;
  - b. Bilingual liaison between migrant parents and the center or family child care home, or both.
  - c. Liaison between the agency and the relevant community agencies and organizations, including health and social services.

- d. Identification and documentation of family needs and follow up referrals as appropriate.
- 3. Staffing
  - a. Bilingual health personnel shall be available to each program site of a migrant child care and development agency.
  - b. Professional and nonprofessional staff shall reflect the linguistic and cultural background of the children being served.
  - c. Whenever possible, migrants will be recruited, trained, and hired in child care and development programs. Documentation of training and career ladder opportunities and of recruitment and hiring efforts shall be provided to the Department of Education.
  - d. Staff training shall include principles and practices of child care and development for the age groups of children being served.
- 4. Health services in migrant child care and development programs shall include health and dental screening and follow up treatment. Health records for all migrant children shall follow the child. (*EC 8232*)
- 5. Cost for migrant programs may exceed the standard reimbursement rate established by the Superintendent of Public Instruction. In no case shall the reimbursement exceed the cost of the program. State-funded programs may be eligible for Chapter I federal funds to supplement state funding. These funds shall not be contingent upon the provision of additional child days or enrollment.
- 6. The Superintendent of Public Instruction shall annually reimburse seasonal migrant child care and development agencies for approvable startup and closedown costs. Reimbursement for both startup and closedown costs shall not exceed 15 percent (15%) of each such agency's total contract amount.
- 7. Seasonal migrant child care and development agencies shall submit reimbursement claims for startup costs with their first monthly reports, and reimbursement claims for closedown costs with their final reports. (*EC 8233*)
- 8. In addition to the quality indicators contained in this document the contractor shall provide services as required by *EC 8232*. Funding for these services is included in a separate local agreement (CMSS) and is not earned through provision of service but must be spent on reimbursable costs for specific activities identified later in this document.

## II. ELIGIBILITY CERTIFICATION AND FAMILY DATA FILE DOCUMENTATION

### A. General Requirements (*EC* 8201(a), 8231(a), 8263(a) (1) and (2), and 8263.4; 5 *CCR* 18107)

1. To receive Migrant child care and development program services the family shall have earned at least fifty percent (50%) of its total gross income from employment in fishing, agriculture or agriculturally related work during the twelve (12) month period immediately preceding the date of application for child care and development services.
2. Families shall also meet eligibility and need criteria.(*EC* 8263(a) (1)) In addition to meeting eligibility and/or need requirements, to be eligible for services the child must live in the State of California while services are being received. Evidence of a street address or post office address in California will be sufficient to establish residency. A person identified as “homeless” is exempted from this requirement and shall submit a declaration of intent to reside in California.
3. The governing board of a school district, community college district, or a county superintendent of schools may accommodate children residing outside the district boundaries in accordance with *EC* 8322(a). The determination of eligibility shall be without regard to the immigration status of the child or the child's parent(s) unless the child or the child's parent(s) is under a final order of deportation from the United States Department of Homeland Security.
4. Children who have reached their thirteenth (13th) birthday are ineligible for subsidized services except those children with exceptional needs and severely disabled children may be served to age twenty-one (21). Children with exceptional needs shall also meet the criteria for that age group specified in *EC* 56026 and 5 *CCR* 3030 and 3031.
5. The preferred placement for children who are eleven (11) or twelve (12) years of age and who are otherwise eligible for subsidized child care and development services shall be in a before or after school program. Children who are eleven (11) or twelve (12) years of age shall continue to receive subsidized child care services when a before or after school program is not available.

### B. Eligibility and Need Criteria, Priority of Services (*EC* 8263(a) (1)); 5 *CCR* 18085.5 (b) and 18191)

1. In addition to meeting the criteria for being an agricultural worker family as specified in *EC* 8231(a), the family shall also meet eligibility and need criteria specified in *EC* 8263(a)(1) and (a) (2).



2. Eligibility shall be established if the family meets the eligibility criteria in this section and either moves into, or within, one of the six (6) entry counties to establish a temporary residence and engage in or seek to obtain agricultural work. Eligibility shall be established by a., b., c., or d. below:
  - a. Family is a current cash aid recipient;
  - b. Family is income eligible;
  - c. Family is homeless; or
  - d. Family has children who are recipients of protective services or whose children have been identified as being abused, neglected, or exploited, or at risk of being abused, neglected or exploited.

For full documentation requirements see section on Family Data File.

C. Need Criteria (*EC 8263(a) (2); 5 CCR 18085.5(b)*)

1. Need shall be established by a. or b. below:
  - a. The family needs the child care and development services because:
  - b. The child is identified by a legal, medical, social services agency, transitional shelter, emergency shelter, Head Start program or Local Education Agency (LEA) liaison for homeless children and youths pursuant to 42 US 11432(g)(1)(j)(ii) as a recipient of child protective services or as being neglected, abused or exploited, or at risk of abuse, neglect, or exploitation.
2. The eligible family, regardless of the number of parent(s) in the home and any other adult counted in the family size need child care and development services because the parents are any of the following:
  - a. Employed;
  - b. Seeking employment;
  - c. Engaged in vocational training leading directly to a recognized trade, para-profession or profession;
  - d. Homeless and seeking permanent housing for family stability;
  - e. Incapacitated;
  - f. Families who are eligible for subsidized child care and development services based on income, public assistance, or homelessness must

document that each parent as defined in title 5 18018(l) in the family meets a need criterion. (*EC 8263(a)(2)(B)*; 5 *CCR 18078(f)*)

For full documentation requirements see section on Family Data File.

3. Subsidized child care and development services shall only be available to the extent which:
  - a. The parent meets a need criterion that precludes the provision of care and supervision of the family's child for some of the day;
  - b. There is no parent in the family capable of providing care for the family's child during the time care is requested; and
  - c. Supervision of the family's child is not otherwise being provided by school or another person or entity.
- D. Certification of Eligibility and Need (*EC 8261, 8263, 8265, and 8269*; 5 *CCR 18082, 18094, 18095, 18102, 18093 and 18183*)
  1. The contractor shall designate the staff person authorized to certify eligibility. Prior to initial enrollment and at the time of recertification, an authorized representative of the contractor shall:
    - a. Certify each family's/child's eligibility and need for child care and development services after reviewing the completed application and documentation contained in the family data file.
    - b. Issue a Notice of Action, Application for Services as described in 5 *CCR 18094* or a Notice of Action, Recipient of Services as described in 5 *CCR 18095*.
  2. At the time of certification and recertification, families shall be informed of their responsibility to notify the contractor, within five (5) calendar days of any changes in family income, family size, or need for child care and development services.
  3. When a child's residence alternates between the homes of separated or divorced parents, eligibility, need and fees should be determined separately for each household in which the child is residing during the time child development services are needed (i.e., separate certifications and service agreements). For example, a child may be certified during part of the week and full cost the rest of the week.
- E. Contents of Family Data File (*EC 8261, 8261.5, 8263, and 8269*; 5 *CCR 18081*)
  1. Contractors shall establish and maintain a family data file for each family receiving child care and development services.

2. The family data file shall contain a completed and signed application for services and using the following records as applicable to determine eligibility and need prior to enrollment *EC* 8263(a)(1) and (a)(2):
  - a. Documentation of income eligibility, including an income calculation worksheet;
  - b. Documentation of employment;
  - c. Documentation of seeking employment;
  - d. Documentation of training;
  - e. Documentation of parental incapacity;
  - f. Documentation of child's exceptional needs;
  - g. Documentation of homelessness;
  - h. Documentation of seeking permanent housing for family stability;
  - i. Written referral from a legally qualified professional from a legal, medical, social service agency, Head Start Program, transitional shelter, emergency shelter or LEA liaison for homeless children and youth pursuant to 42 US 11432(g)(1)(j)(ii), for children identified as being abused, neglected or exploited or at risk of abuse, neglect, or exploitation;
  - j. Written referral from a county welfare department, child welfare services worker, certifying that the child is receiving protective services and the family requires child care and development services as part of the case plan.
3. A signed Child Care Data Collection Privacy Notice and Consent Form CD9600A (Rev. 01/04) shall be included.
4. Notice of Action, Application for Services and/or Recipient of Services shall be included.
5. Documentation of Child Health and Emergency Contact Information. The family data file shall contain all child health and current emergency information required by 22 *CCR* 101221 Community Care Facilities Licensing Regulations with the following exceptions. Immunization records are not required to be in the family data file for child attending a public or private elementary school or for children receiving care in licensed facilities and reimbursed pursuant to *EC* 8220 and 8350.

F. Family Data File and Documentation

1. Application for Services (*EC* 8261 and 8263; 5 *CCR* 18083 and 18100)

The application for services shall contain the following information:

- a. The parent's(s') full name(s), address(es) and telephone number(s);
- b. The names, gender, and birth dates of all children under the age of eighteen (18) in the family, whether or not they are served by the program;
- c. The number of hours of care needed each day for each child;
- d. The names of other family members in the household related by blood, marriage, or adoption;
- e. The reason for needing child care and development services as specified below:
  - i. Child Protective Services;
  - ii. Employment;
  - iii. Training;
  - iv. Seeking Employment;
  - v. Incapacitation of the parent;
  - vi. Special Need of the Child; or
  - vii. Seeking Permanent Housing for Family Stability.
- f. Employment or training information for parent(s) including name and address of employer(s) or training institution(s) and days and hours of employment or training, if applicable.
- g. Eligibility status is: (*EC* 8263(a)(1))
  - i. Child Protective Services;
  - ii. Current Aid Recipient;
  - iii. Income Eligible; or
  - iv. Homeless.

- h. Family size and income, if applicable;
  - i. The parent's signature and date of the signature;
  - j. The signature of the contractor's authorized representative certifying the eligibility and need.
- G. Documentation and Determination of Family Size (*EC* 8261 and 8263; 5 *CCR* 18100)
  - 1. The information provided on the application for services shall be used to determine family size. The parent shall provide the names of the parents and the names, gender and birthdates of the children identified in the family. This information shall be documented on a confidential application for child care and development services and used to determine family size. The parent shall provide supporting documentation regarding the number of children and parents in the family.
    - a. The number of children shall be documented by providing one of the following documents, as applicable:
      - i. Birth certificates;
      - ii. Court orders regarding child custody;
      - iii. Adoption documents;
      - iv. Records of Foster Care placements;
      - v. School or medical records;
      - vi. County welfare department records; or
      - vii. Other reliable documentation indicating the relationship of the child to the parent.
    - b. When only one parent has signed the application and the information provided indicates the child(ren) in the family has another parent whose name does not appear on the application, then the presence or absence of that parent shall be documented by providing any one of the following documents, as applicable:
      - i. Records of marriage, divorce, domestic partnership or legal separation;
      - ii. Court-ordered child custody arrangements;

- iii. Evidence that the parent signing the application is receiving child support payments from that person, has filed for child support with the appropriate local agency, or has executed documents with that agency declining to file for child support;
    - iv. Rental receipts or agreements, contracts, utility bills or other documents for the residence of the family indicating that the parent is the responsible party; or
    - v. Any other documentation, excluding a self-declaration except as provided below, to confirm the presence or absence of a parent of a child in the family.
  - c. If, due to the recent departure of a parent from the family, the remaining applicant parent cannot provide any documentation described above, the applicant parent may submit a self-declaration signed under penalty of perjury explaining the absence of that parent from the family. Within six (6) months of applying or reporting this change in family size, the parent must provide documentation.
  - d. If the information provided by the parent is insufficient, the contractor shall request any additional documentation necessary to verify the family composition and family size.
  - e. For income eligibility and family fee purposes, when a child and his or her siblings are living in a family that does not include their biological or adoptive parent, only the child and related siblings shall be counted to determine family size. In these cases, the adult(s) must meet a need criterion
- H. Documentation of Eligibility: Income Eligibility (*EC* 8261, 8263 and 8263.1; 5 *CCR* 18078(a) and (s), and 18084)

The parent is responsible for providing documentation of the family's total countable income and the contractor is required to verify the information, as described below:

- 1. The parent(s) shall document total countable income for all the individuals counted in the family size as follows:
  - a. If the parent is employed, provide:
    - i. A release authorizing the contractor to contact the employer(s), to the extent known, that includes the employer's name, address, telephone number, and usual business hours; and

- ii. All payroll check stubs, a letter from the employer, or other record of wages issued by the employer for the month preceding the initial certification, an update of the application, or the recertification that establishes eligibility for services.
  - b. When the employer refuses or fails to provide requested documentation or when a request for documentation would adversely affect the parent's employment, provide other means of verification that may include a list of clients and amounts paid, the most recently signed and completed tax returns, quarterly estimated tax statements, or other records of income to support the reported income, along with a self-certification of income.
  - c. If the parent is self-employed, provide a combination of documentation necessary to establish current income eligibility for at least the month preceding the initial certification, an update of the application, or the recertification that establishes eligibility for services. Documentation shall consist of as many of the following types of documentation as necessary to determine income:
    - i. A letter from the source of the income;
    - ii. A copy of the most recently signed and completed tax returns with a statement of current estimated income for tax purposes; or
    - iii. Other business records, such as ledgers, receipts, or business logs.
  - d. Provide copies of the documentation of all non-wage income referenced in the definition of "total countable income," self-certification of any income for which no documentation is possible, and any verified child support payments referenced in the definition of "adjusted monthly income". (5 CCR 10978(q))
2. The contractor:
- a. Shall retain copies of the documentation of total countable income and adjusted monthly income in the family data file.
  - b. When the parent is employed, shall, as applicable, verify the parent's salary/wage; rate(s) of pay; potential for overtime, tips or additional compensation; hours and days of work; variability of hours and days of work; pay periods and frequency of pay, start date for the employee. If the employer refuses or is non-responsive in providing requested information or a request for employer documentation would adversely affect the parent's employment, and if the information provided is inconsistent with the contractor's knowledge

or community practice, shall request clarification in the self-certification of income, additional income information or a reasonable basis for concluding that the employer exists.

- c. When the parent is self-employed shall obtain and make a record of independent verification regarding the cost for services provided by the parent that may be obtained by contacting clients, reviewing bank statements, or confirming the information in the parent's advertisements or Web site. If the income cannot be independently verified, the contractor shall assess whether the reported income is reasonable or consistent with the community practice for this employment.
  - d. May request additional documentation to verify total countable income to the extent that the information provided by the parent or the employer is insufficient to make a reasonable assessment of income eligibility.
  - e. To establish eligibility, shall, by signing the application for services, certify to the contractor's reasonable belief that the income documentation obtained and, if applicable, the self-certification, support the reported income, are reliable and are consistent with all other family information and the contractor's knowledge, if applicable, of this type of employment or employer.
3. If the family is receiving child care and development services because the child(ren) is/are identified as being abused, neglected, or exploited or at risk of abuse, neglect, or exploitation or receiving child protective services, and the written referral required by 5 CCR 18081(b)(9) and (b)(10) specifies that it is necessary to exempt the family from paying a fee, then the parent will not be required to provide documentation of total countable income.
- I. Calculation of Income (*EC* 8261 and 8263 and 8263.1; 5 CCR 18078(a), (q), and (s), and 18906)

The contractor shall calculate total countable income based on income information reflecting the family's current and on-going income:

- 1. Using an income calculation worksheet that specifies the frequency and amount of the payroll check stubs provided by the parent and all other sources of income referenced in the definition of "total countable income."
- 2. When income fluctuates because of:
  - a. Agricultural work as referenced in the definition of "income fluctuation" by averaging income from the twelve (12) months preceding the initial certification, an update of the application, or the recertification that establishes eligibility for services.



- b. Intermittent income as referenced the definition of “income fluctuation” by averaging the intermittent income from the preceding twelve (12) months by dividing by twelve (12) and add this amount to the other countable income.
- c. Unpredictable income as referenced in the definition of “income fluctuation” by averaging the income from at least three (3) consecutive months and no more than twelve (12) months preceding the initial certification, an update of the application, or the recertification that establishes eligibility for services.

J. Documentation of Public Assistance (*EC 8261 and 8263; 5 CCR 18085*)

If the basis of eligibility is a current aid recipient, the parent shall provide documentation of public cash assistance, unless the contractor has and elects to use other means of obtaining verification.

K. Documentation of Employment (*EC 8261 and 8263; 5 CCR 18086*)

If the basis of need is employment of the parent(s), the documentation of the parent(s) employment shall include the days and hours of employment.

- 1. If the parent has an employer, the documentation of need based on employment shall consist of one of the following:
  - a. The pay stubs provided to determine income eligibility that indicate the days and hours of employment;
  - b. When the provided pay stubs do not indicate the days and hours of employment, the contractor shall verify the days and hours of employment by doing one of the following:
    - i. Secure an independent written statement from the employer;
    - ii. Telephone the employer and maintain a record;
    - iii. If the provided pay stubs indicate the total hours of employment per pay period and if the contractor is satisfied that the pay stubs have been issued by the employer, specify on the application for services the days and hours of employment to correlate with the total hours of employment and the parent’s need;
    - iv. If the variability of the parent’s employment is unpredictable and precludes the contractor from verifying specific days and hours of employment or work week cycles, specify on the application for services that the parent is authorized for a

variable schedule for actual hours worked, identifying the maximum number of hours of need based on the week with the greatest number of hours within the preceding four weeks and the verification. Until such time as the employment pattern becomes predictable, need for services shall be updated at least every four (4) months and shall be based on the requirements and the child care services utilized;

- v. If the employer refuses or is non-responsive in providing the requested information, record the contractor's attempts to contact the employer, and specify and attest on the application for services to the reasonableness of the days and hours of employment based on the description of the employment and community practice; or
  - vi. If the parent asserts in a declaration signed under penalty of perjury that a request for employer documentation would adversely affect the parent's employment, on the application for services:
    - a) Attest to the reasonableness of the parent's assertion; and
    - b) Specify and attest to the reasonableness of the days and hours of employment based on the description of the employment and community practice.
  - c. When the employed parent does not have pay stubs or other record of wages from the employer and has provided a self-certification of income the contractor shall assess the reasonableness of the days and hours of employment, based on the description of the employment and the documentation provided, and authorize only the time determined to be reasonable.
2. If the parent is self-employed, the documentation of need based on employment shall consist of the following:
- a. Parent provided information that includes:
    - i. A declaration of need under penalty of perjury that includes a description of the employment and an estimate of the days and hours worked per week;
    - ii. To demonstrate the days and hours worked, a copy of one or more of the following: appointment logs, client receipts, job logs, mileage logs, a list of clients with contact information, or similar records; and

- iii. As applicable, a copy of a business license, a workspace lease, or a workspace rental agreement.
  - b. A statement by the contractor assessing the reasonableness of the total number of days and hours requested per week based on the description of the employment and the documentation. If the parent has unpredictable hours or employment, the contractor shall authorize the parent for a variable schedule not to exceed the number of hours determined to be needed per week. Need for services for unpredictable hours shall be updated at least every four (4) months. If the contractor has been unable to verify need based on the documentation provided, the contractor shall take additional action to verify self-employment that includes any one or more of the following:
    - i. If the self-employment occurs in a rented space, contracting the parent's lessor or other person holding the right of possession to verify the parent's renting of the space;
    - ii. If the self-employment occurs in variable locations, independently verifying this information by contacting one or more clients whose names and contact information have been voluntarily provided by the parent; or
    - iii. Making other reasonable contacts or requests to determine the amount of time for self-employment.
  - c. If the contractor is unable to make a reasonable assessment of the hours needed for self-employment after attempting to verify such hours and documenting the attempts, the contractor may divide the parent's self-employment income by the applicable minimum wage. The resulting quotient shall be the maximum hours needed for employment per month.
- 3. For the instances identified, the parent shall provide a release to enable the contractor to obtain the information it deems necessary to support the parent's asserted days and hours worked per week.
- 4. If additional services are requested for travel time or sleep time to support employment, the contractor shall determine, as applicable, the time authorized for:
  - a. Travel to and from the location at which services are provided and the place of employment, not to exceed half of the daily hours authorized for employment to a maximum of four hours per day; or

- b. Sleep, if the parent is employed anytime between 10:00 p.m. and 6:00 a.m., not to exceed the number of hours authorized for employment and travel between those hours.
- L. Documentation of Employment in the Home or a Licensed Family Day Care Home (*EC* 8261, 8263 and 8265; 5 *CCR* 18086.1)

The requirements of this section are in addition to those stated in 5 *CCR* 18086.

- 1. If the parent's employment is in the family's home or on property that includes the family's home, the parent must provide justification for requesting subsidized child care and development services based on the type of work being done and its requirements, the age of the family's child for whom services are sought, and, if the child is more than five (5) years old, the specific child care needs. The contractor shall determine and document whether the parent's employment and the identified child care needs preclude the supervision of the family's child.
  - 2. If the parent is a licensed family day care home provider pursuant to *Health and Safety Code (HSC)* 1596.78 or an individual license-exempt provider pursuant to *HSC* 1596.792, subdivisions (d) or (f), the parent is not eligible for subsidized services during the parent's business hours because the parent's employment does not preclude the supervision of the family's child.
  - 3. If the parent is employed as an assistant in a licensed large family day care home, pursuant to *HSC* Section 1596.78(b), and is requesting services for the family's child in the same family day care home, the parent shall provide documentation that substantiates all of the following:
    - i. A copy of the family day care home license indicating it is licensed as a large family day care home;
    - ii. A signed statement from the licensee stating that the parent is the assistant, pursuant to the staffing ratio requirement of *CCR*, Title 22, Section 102416.5(c).
    - iii. Proof that the parent's fingerprints are associated with that licensed family day care home as its assistant, which the contractor may verify with the local community care licensing office; and
    - iv. Payroll deduction withheld for the assistant by the licensee, which may be a pay stub.
- M. Documentation of Seeking Employment; Service Limitations (*EC* 8261, 8263 and 8265; 5 *CCR* 18086.5)
  - 1. If the basis of need as stated on the application for services is seeking employment, the parent's period of eligibility for child care and development

services is limited to sixty (60) working days during the contract period or if the SSPI suspends the eligibility limitations pursuant to 5 CCR 18086.5(d). Services shall occur on no more than five (5) days per week and for less than thirty (30) hours per week. The period of eligibility shall start on the day authorized by the contractor and extend for consecutive working days.

2. Documentation of seeking employment shall include a written parental declaration signed under penalty of perjury stating that the parent is seeking employment. The declaration shall include the parent's plan to secure, change, or increase employment and shall identify a general description of when services will be necessary.
  3. The contractor shall determine the number of working days available for seeking employment and the child care schedule, which may be a variable schedule, based on the documentation. During the period of authorization and if necessary to verify need, the contractor may request that the parent provide, no more than once a week, a description of the activities he or she has undertaken during the previous week to seek employment and, as appropriate, may require additional documentation.
  4. If the parent has concurrently received services based on employment or vocational training for at least twenty (20) working days while receiving services for seeking employment, eligibility for seeking employment may be extended for an additional twenty (20) working days. For such a parent, services for this purpose shall not exceed eighty (80) working days during the contract period.
  5. If services for this purpose are discontinued, the number of working days remaining in the period of eligibility shall be available for a subsequent period of eligibility during the contract period.
  6. As used in this section, the working days used to determine the period of eligibility shall include the consecutive Mondays through Fridays, excluding any federal holidays.
- N. Documentation of Training toward Vocational Goals; Service Limitations (*EC* 8261, 8263, and 8265; 5 CCR 18087)
1. If the basis of need on the application for services is vocational training leading to a recognized trade, para-profession, or profession, child care and development services shall be limited to whichever expires first:
    - a. Six (6) years from the initiation of services pursuant to this section; or
    - b. Twenty-four (24) semester units, or its equivalent, after the attainment of a Bachelor's Degree.

2. The parent shall provide documentation of the days and hours of vocational training to include:
  - a. A statement of the parent's vocational goal;
  - b. The name of the training institution that is providing the vocational training;
  - c. The dates that current quarter, semester, or training period, as applicable, will begin and end;
  - d. A current class schedule that is either an electronic print-out from the training institution of the parent's current class schedule or, if available, a document that includes all of the following:
    - i. The classes in which the parent is currently enrolled;
    - ii. The days of the week and times of day of the classes; and
    - iii. The signature or stamp of the training institution's registrar.
    - iv. The anticipated completion date of all required training activities to meet the vocational goal; and
    - v. Upon completion of a quarter, semester, or training period, as applicable, a report card, transcript, or, if the training institution does not use formal letter grades, other records to document that the parent is making progress toward the attainment of the vocational goal.
3. A parent shall report any change in his or her class schedule related to the days and times of any class, including a withdrawal from a class, within five (5) calendar days of requesting the change from the institution.
4. Services may be provided for classes related to the General Education Development (GED) test or English language acquisition if such courses support the attainment of the parent's vocational goal.
5. On-line or televised instructional classes that are unit bearing classes from an accredited training institution shall be counted as class time at one hour a week for each unit. The parent shall provide a copy of the syllabus or other class documentation and, as applicable, the Web address of the on-line program. The accrediting body of the training institution shall be among those recognized by the United States Department of Education.
6. Continuation of services based on training is contingent upon making adequate progress. To make progress each quarter, semester, or training

period, as applicable, the parent shall, in the college classes, technical school, or apprenticeship for which subsidized care is provided:

- a. In a graded program, earn a 2.0 grade point average; or
  - b. In a non-graded program, pass the program's requirements in at least fifty percent (50%) of the classes or meet the training institution's standard for making adequate progress.
7. The first time the parent does not meet the condition, the parent may continue to receive services for one additional quarter, semester, or training period, as applicable, to improve the parent's progress. At the conclusion of that session, the parent shall, in the classes for which subsidized care was provided, have made adequate progress. If the parent has not made adequate progress, services for this purpose shall be:
  - a. Terminated; and
  - b. Available to the parent after six (6) months from the date of termination.
8. No later than ten (10) calendar days after the training institution's release of progress reports for the quarter, semester, or vocational training period, as applicable, the parent shall provide the contractor with a copy of the parent's official progress report. As it deems appropriate, the contractor may require the parent to:
  - a. Have an official copy of a progress report sent directly from the training institution to the contractor; or
  - b. Provide a release, as may be required by the training institution, to enable the contractor to verify the parent's progress within the institution.
9. A parent may change his or her vocational goal, but services shall be limited to the time or units remaining from the initiation of the provision of services for vocational training.
10. The contractor shall determine the days and hours needed per week, and whether the parent is making progress, based on the documentation. The contractor may request that the parent provide a publication from the training institution describing the classes required to complete the parent's vocational goal.
11. If additional services are requested for study time or travel time to support the vocational training, the contractor shall determine, as appropriate, the amount of services needed for:

- a. Travel to and from the location at which services are provided and the training location, not to exceed half of the weekly hours authorized for training to a maximum of four (4) hours per day; or
  - b. Study time, including study time for on-line and televised instructional classes, according to the following:
    - i. Two (2) hours per week per academic unit in which the parent enrolled;
    - ii. On a case-by-case basis and as may be confirmed with the class instructor, additional time not to exceed one (1) hour per week per academic unit in which the parent is enrolled; and
    - iii. On a case-by-case basis, no more than the number of class hours per week for non-academic or non-unit bearing training.
- 12. The service limitations shall not apply to a parent who demonstrates he or she is:
  - a. As of June 27, 2008, receiving services for vocational training and has attained a Bachelor's Degree;
  - b. Receiving services from a program operating pursuant to *EC 66060*;
  - c. Attending vocational training when the parent has been deemed eligible for rehabilitation services by the California Department of Rehabilitation; or
  - d. Attending retraining services available through the Employment Development Department of the State or its contractors due to a business closure or mass layoff.
- O. Documentation of Parental Incapacity; Service Limitations (*EC 8261, 8263, and 8265; 5 CCR 18088*)
  - 1. If the basis of need as stated on the application for services is parental incapacity, child care and development services shall not exceed fifty (50) hours per week.
  - 2. Documentation shall include a release signed by the incapacitated parent authorizing a legally qualified health professional to disclose information necessary to establish that the parent meets the definition of incapacity, and needs services.
  - 3. The documentation of incapacitation provided by the legally qualified health professional shall include:



- a. A statement that the parent is incapacitated, that the parent is incapable of providing care and supervision for the child for part of the day, and, if the parent is physically incapacitated, that identifies the extent to which the parent is incapable of providing care and supervision;
    - b. The days and hours per week that services are recommended to accommodate the incapacitation, taking into account the age of the child and the care needs. This may include time for the parent's regularly scheduled medical or mental health appointments;
    - c. The probable duration of the incapacitation; and
    - d. The name, business address, telephone number, professional license number, and signature of the legally qualified health professional who is rendering the opinion of incapacitation and, if applicable, the name of the health organization with which the professional is associated;
  - 4. The contractor may contact the legally qualified health professional for verification, clarification, or completion of the provided statement;
  - 5. The contractor shall determine the days and hours of service based on the recommendation of the health professional and consistent with the provisions of this article.
- P. Documentation of the Child's Exceptional Needs (*EC* 8261 and 8263; 5 *CCR* 18089)

The family data file shall contain documentation of the child's exceptional needs if the contractor is claiming adjustment factors pursuant to *EC* 8265.5(b) (4) or (b) (5), the child with exceptional needs is eleven (11) to twenty-one (21) years of age, or the contractor is operating a program pursuant to *EC* 8250(d), the documentation of exceptional needs shall include:

- 1. A copy of the portion of the active individual family service plan (IFSP) or the individualized education program (IEP) that includes the information as specified in *EC* 56026 and 5 *CCR* 3030 and 3031; and
- 2. A statement signed by a legally qualified professional that:
  - a. The child requires the special attention of adults in a child care setting; and
  - b. Includes the name, address, license number, and telephone number of the legally qualified professional who is rendering the opinion.

Q. Documentation of Homelessness (*EC* 8261 and 8263; 5 *CCR* 18090)

If the basis of eligibility as specified in *EC* 8263(a) (1) is homelessness, the family data file shall include documentation of homelessness. The documentation of homelessness shall include:

1. A written referral from an emergency shelter or other legal, medical or social service agency; or
2. A written parental declaration that the family is homeless and a statement describing the family's current living situation.

R. Documentation of Seeking Permanent Housing; Service Limitations (*EC* 8261 and 8263; 5 *CCR* 18091)

1. If the basis of need as stated on the application for services is seeking permanent housing for family stability, the parents' period of eligibility for child care and development services is limited to sixty (60) working days during the contract period, except as specified below. Services shall occur on no more than five (5) days per week for less than thirty (30) hours per week. The period of eligibility shall start on the day authorized by the contractor and extend for consecutive working days.
2. Documentation of seeking permanent housing shall include a written parental declaration signed under penalty of perjury that the family is seeking permanent housing. The declaration shall include the parent's search plan to secure a fixed, regular, and adequate residence and shall identify a general description of when services will be necessary. If the family is residing in a shelter, services may also be provided while the parent attends appointments or activities necessary to comply with the shelter participation requirements.
3. The contractor shall determine the number of weeks available for seeking permanent housing and the child care schedule, which may be a variable schedule, based on the documentation. During the period of authorization and if necessary to verify need, the contractor may request that the parent provide, no more than once a week, either a declaration signed under penalty of perjury describing the activities the parent has undertaken during the previous week to seek permanent housing or a signed statement from the shelter, transitional housing agency, or homeless support program regarding the parent's search progress to date.
4. If the parent does not expect to secure housing prior to the end of the eligibility period:
  - a. The parent may request an extension in a declaration of need signed under penalty perjury that includes an update of the parent's search plan and either a description of the activities undertaken during the

previous week to seek permanent housing or a signed statement from the shelter, transitional housing, agency, or homeless support program indicating the parent's continued need for services; and

- b. The contractor may authorize an extension of search eligibility for up to twenty (20) additional work days.
5. If services for this purpose are discontinued, the number of working days remaining in the period of eligibility shall be available for a subsequent period of eligibility during the contract period.

As used in this section, the working days used to determine the period of eligibility shall include the consecutive Mondays through Fridays, excluding any federal holidays.

S. Documentation of Eligibility and/or Need: Child Protective Services (*EC* 8261 and 8263(b) (1); 5 *CCR* 18092 and 18081(b) (10))

If eligibility and need as specified in *EC* 8263(a)(1) and (a)(2) are based on a child receiving child protective services, the family data file shall contain a written referral, dated within the six (6) months immediately preceding the date of application for services, from a legal, medical, social service agency or emergency shelter. The written referral shall include either:

1. A statement from the local county welfare department, child protective services unit certifying that the child is receiving child protective services and that child care and development services are a necessary component of the child protective services plan; or
2. A statement by a legally qualified professional that the child is at risk of abuse or neglect and the child care and development services are needed to reduce or eliminate that risk; and
3. The probable duration of the child protective services plan; and
4. The name, address, telephone number, and signature of the child welfare services worker who is making the referral.

T. Documentation of At Risk of Abuse, Neglect or Exploitation (*EC* 8261 and 8263; 5 *CCR* 18081(b) (9) and 18092.5)

If eligibility and need are based on the child being at risk of abuse, neglect, or exploitation, the family data file shall contain a written referral, dated within the six (6) months immediately preceding the date of application for services from a legal, medical, social service agency, or emergency shelter certifying that:

1. The child is at risk of abuse, neglect, or exploitation and that the family needs child care and development services; and

2. The probable duration of the need for child care and development services; and
3. The name, address, telephone number, and signature of the legally qualified professional who is making the referral and information that identifies the agency or shelter with whom the individual is associated.

U. Updating the Application (*EC* 8261 and 8263; 5 *CCR* 18102 and 18103(b) (1–3))

Contractors shall update the family's application to document continued need and eligibility and determine any change to fee assessment, if applicable, as follows:

1. For migrant and other seasonally employed families, the application shall be updated within thirty (30) days whenever there is a change in family size or need if need is based on training or incapacity of the parent;
2. For all other families, the application shall be updated within thirty (30) days whenever there is a change in family size, income, public assistance status or need;
3. The requirement for updating the files does not apply to families receiving services because the child is receiving child protective services or at risk of abuse, neglect or exploitation.

V. Recertification (*EC* 8261, 8263(b) (1) (B) and (C); 5 *CCR* 18103)

After initial certification and enrollment, the contractor shall verify need and eligibility and recertify each family/child as follows:

1. Families receiving child care and development program services because the child is at risk of abuse, neglect, or exploitation shall be recertified at least once every six (6) months; The family can continue to receive child care and development services based on any of the following reasons:
  - a. The child is receiving protective services and child care and development services are part of the case plan;
  - b. The family meets other need and eligibility criteria.
2. Families receiving services because the child and family are receiving child protective services shall be recertified at least every six (6) months and, at the time of recertification, the contractor shall document that the family is participating in a protective services plan in accordance with the requirements of their local county welfare department, child protective services unit to alleviate the circumstances causing the abuse, neglect or exploitation;

Recertification must be completed prior to the date identified on the child protective services referral as the duration of care. Families may continue to receive child care and development services for child protective services children as needed, if the county welfare department, child welfare services worker certifies that the family continues to receive child protective services and that child care and development program services are part of the case plan or if the family meets other need and eligibility;

3. All other families shall be recertified at least once each contract period and at intervals not to exceed twelve (12) months.

### III. LIMITED TERM SERVICE LEAVE REQUIREMENTS (*EC* 8261, 8263, 8265 and 8269; 5 *CCR* 18104)

- A. If the family will temporarily not have a need for child care and development program services, the contractor may grant the family a limited term service leave. Reasons for a limited term service leave shall include medical leave and family leave, and may include, but are not limited to, break in employment, school break, the child's visit with the non-custodial parent that is not ordered by the court, or family vacation in excess of best. Family leave means a leave:
  1. For the birth and care of the newborn child of the parent;
  2. For placement with the parent of a child for adoption or foster care; and
  3. To care for the parent's child, spouse, or parent who has a health condition.
- B. If the contractor offers limited term service leaves, the contractor:
  1. Shall provide equal access to limited term service leaves; and
  2. May set a limit on the number of leaves to be granted in a contract year based on an assessment of contract resources pursuant to 5 *CCR* 18054.
- C. If the contractor grants a limited term service leave:
  1. The family shall not be disenrolled from the program;
  2. The service agreement with the parent shall indicate that no services will be provided during the limited term service leave; and
  3. The contractor shall not report the child as enrolled nor claim reimbursement from the CDE while the child is on a limited term service leave.
- D. A limited term service leave shall not exceed twelve (12) consecutive weeks in duration, except as specified below.

1. A limited term service leave from employment or training shall not exceed sixteen (16) consecutive weeks in duration if the leave is for:
  - a. A medical or family leave; or
  - b. A period when the vocational training program is not in spring, fall, or winter sessions.
2. A limited terms service leave may be granted for any portion of the contract period in which a child is attending an After School Education and Safety Program, pursuant to *EC 8482 et seq.*, or a federal 21st Century Community Learning Centers program, as reference in *EC 8484.7, et seq.*

IV. ADMISSION PRIORITIES (*EC 8261 and 8263(b); 5 CCR 18106*))

- A. First Priority: Families whose children are receiving child protective services or families whose children are at risk of being neglected, abused, or exploited shall be admitted first. Within this priority, children receiving protective services through the local county welfare department shall be admitted first.
  1. When not all of the children in a family are certified based on child protective services, the other children or the parents in the family must meet both eligibility and need criteria prior to enrollment and shall be admitted in accordance with priorities specified above.
  2. Except for situations where not all of the children in a family are certified based on child protective services, a family that has a child or children enrolled in a program shall be allowed to enroll additional children provided there exists an appropriate program opening such as infant care or services to school age care children in which to enroll the child.
- B. Second Priority: All children and families who are not within the first priority for admission shall be admitted in accordance with family income, with the lowest income ranked families admitted first. For purposes of determining the order of admission, families with the lowest gross monthly income in relation to family size as determined by the schedule adopted by the Superintendent shall be admitted first. Public assistance grants are counted as income. When two (2) or more families have the same income ranking the family that has a child with exceptional needs shall be admitted first. If there is no family of the same income ranking with a child with exceptional needs, the family with the same income ranking that has been on the waiting list the longest shall be admitted first.
- C. Contractors shall not deny service to nor assign a lower priority to a family that needs less than full-time services.
- D. In accordance with *EC 8263(b) (3)*, the CDE may grant a waiver to the priorities specified above in order for the contractor to serve specific populations. Requests may not include waiver of the fee schedule or admission of ineligible families.

Waiver requests shall be submitted to the CDE and approved prior to implementation.

## V. POLICIES AND PROCEDURES

### A. General Admission Procedures (*EC 8261 and 8263; 5 CCR 18105*)

Contractors shall develop written admission policies and procedures that shall be made available to the public. The admission procedures established shall conform to requirements in Title 22 *CCR*, Section 101319.

### B. Waiting Lists and Displacement (*EC 8227(e), 8261, 8263 and 8263.3(b); 5 CCR 18106*)

A contractor with a campus child care and development program operating pursuant to *EC 66060*, migrant child care and development program operating on a seasonal basis pursuant to *EC 8230*, or program serving severely handicapped children pursuant to subdivision (d) of *EC 8250* and who has a local site waiting list shall submit eligibility list information to the centralized eligibility list administrator for any parent seeking subsidized child care for whom these programs are not able to provide child care and development services. A child care and development contractor or program described in this paragraph may utilize any waiting lists developed at its local site to fill vacancies for its specific population. Families enrolled from a local site waiting list shall be enrolled pursuant to *EC 8263*.

## VI. FEE SCHEDULE

### A. Fee Schedule

Contractors shall use the most recently approved fee schedule prepared and issued by the CDE when determining whether a family fee is applicable, and the amount of a family fee.

### B. Fee Assessment; Explanation to Parents (*EC 8273 and 8273.2; 5 CCR 18107(a), 18108 and 18109*)

1. The contractor shall utilize the following factors in determining the fee to be assessed for each family. Families shall be assessed a flat fee based on:
  - a. Adjusted monthly family income; and
  - b. Family size: families having fewer than three (3) members shall be regarded as a family of three (3);
  - c. The fee shall be assessed and collected based on the family's child who is enrolled for the longest period;

- d. The fee assessed and collected shall be either the fee indicated on the fee schedule, the actual costs of services or the contract maximum daily/hourly rate, whichever is least;
  - e. No adjustment shall be made for excused or unexcused absences;
  - f. The fee shall be the full portion of the family's cost for services.
- 2. The contractor shall maintain a record of each family's fee assessment, the effective date(s) of each fee increase or decrease, the dates and amounts of fees collected and any amounts which are delinquent.
  - 3. The contractor shall explain to the parent(s) the contractor's policies regarding fee assessment and collection and the possible consequences for delinquent payment of fees.
  - 4. For child protective services and at risk children, that do not have a fee exemption, in families whose adjusted monthly income is over seventy percent (70%) of the state median income based on the family fee schedule, the family will pay the amount of fees assessed to a family whose total adjusted monthly income is seventy percent (70%) of the state median income. (*EC 8273.1*)

C. Exceptions to Fee Assessment (*EC 8273.1* and 5 *CCR 18110*)

- 1. No fees shall be collected from families:
  - a. With an income level that, in relation to family size, is less than the first entry in the fee schedule;
  - b. Because of a need for child protective services;
  - c. In the State Preschool Program;
  - d. In the Federal Based Migrant program;
  - e. In the Severely Handicapped program; or
  - f. In which any individual counted in the family size is receiving CalWORKs cash aid.
  - g. Whose children are enrolled in a part-day CSPP as described in *EC 8235(d)*.
- 2. Families receiving services because the child is at risk of abuse, neglect, or exploitation, may be exempt from paying fees for up to three (3) months if the referral prepared by a legally qualified professional from a legal,



medical, or social services agency, or emergency shelter specifies that it is necessary to exempt the family from paying a fee.

3. Families receiving services because the child is receiving protective services may be exempt from paying fees for up to twelve (12) months if the referral prepared by the county welfare department, child welfare services worker specifies that it is necessary to exempt the family from paying a fee. (*EC 8273.1*)
4. The cumulative period of time of fee exemption for families receiving services because the child is at risk of abuse, neglect, or exploitation or for families receiving child care services because the child is receiving protective services shall not exceed twelve (12) months. (*EC 8273.1*)

D. Co-Payments (*EC 8269 and 8273; 5 CCR 18220.6*)

1. A family may choose any eligible provider regardless of the provider's rate.
2. When a provider's rate and other allowable charges exceed the maximum subsidy amount, the family shall be responsible for paying the provider the difference between the provider's rate and the maximum subsidy amount. This shall be considered the parent's co-payment. The contractor shall not be responsible for collecting the co-payment.

E. No Additional Payments or Costs; Exceptions

1. Except as provided below, neither a contractor nor a provider of services shall require or solicit, in cash or in kind, additional payments from the recipients of service. The prohibition includes activities or services that would increase the family's cost of participation including meals, recreation and field trips. If additional payments are made or additional costs are incurred by the family, the contractor shall refund to the parent(s) the amount of payments made or costs incurred.
2. A contractor or a provider of service need not make a refund as specified in subdivision (a) above when the family is enrolled in an Alternative Payment program and the parent(s) has voluntarily placed the child with a service provider that requires all parent(s) to provide a sack lunch or supplies such as diapers. (*5 CCR 18111 (b)*)
3. The contractor may require parents to provide diapers. The contractor providing field trips may charge parents a fee. No federal or state money shall be used to reimburse parents for the costs of field trips if those costs are charged as an additional fee. A contractor that charges parents an additional fee for field trips shall inform parents, prior to enrolling the child, that a fee may be charged and that no reimbursement will be available. A contractor may charge parents for field trips or require parents to provide diapers only under the following circumstances: (*EC 8273.3*)

- a. The contractor has a written policy adopted by the governing board that includes the parents' decision making process regarding:
      - i. Whether or not, and how much, to charge for field trip expenses;
      - ii. Whether or not to require parents to provide diapers;
      - iii. The maximum total charges per child in a contract year does not exceed twenty-five dollars (\$25).
  4. No child is denied participation in a field trip due to the parent's inability or refusal to pay the charge. No adverse action shall be taken against any parent for that inability or refusal.
  5. The contractor shall establish a payment system that prevents the identification of children based on whether or not their parents have paid a field trip charge.
  6. Expenses incurred and income received for field trips shall be reported to the CDE and income received shall be reported as restricted income.
- F. Credit for Fees Paid to Other Service Providers (*EC 8269 and 8273; 5 CCR 18112*)
 

This section shall apply to child care and development services provided by someone other than the contractor.

  1. When a contractor cannot meet all of a family's needs for child care for which eligibility and need as specified in *EC 8263(a)(1)* and *(a)(2)* have been established, the contractor shall grant a fee credit equal to the amount paid to the other provider(s) of these child care and development services.
  2. The contractor shall apply the fee credit to the family's subsequent fee billing period. The family shall not be allowed to carry over the fee credit beyond the family's subsequent fee billing period.
  3. The contractor shall obtain copies of receipts or cancelled checks for the other child care and development services from the parent. The copies of the receipts or cancelled checks shall be maintained in the contractor's fee assessment records.
- G. Receipt for Payment of Fee; Retention of Copy for Records (*EC 8269 and 8273; 5 CCR 18113*)
  1. The contractor or service provider shall provide an original copy of a pre-numbered receipt to each person who pays a fee. The receipt shall show

the amount paid, the date of payment, the rate of payment and the period of service purchased.

2. The contractor shall retain a copy of the receipt in its fee assessment records.
- H. Advance Payment of Fees; Delinquent Fees; Notice of Delinquency (*EC 8269 and 8273; 5 CCR 18114*)
1. Contractors shall adopt a policy for the collection of fees in advance of providing services. The written policy shall be provided to families at the time of initial enrollment into the program.
  2. For contractors providing direct services to children, fees shall be considered delinquent after seven (7) calendar days from the date the fees were due.
  3. For contractors providing services through Alternative Payment programs, fees shall be considered delinquent on the date they are notified by the provider that fees have not been paid.
  4. A Notice of Action, Recipient of Services shall be used to inform the family of the following:
    - a. The total amount of unpaid fees;
    - b. The fee rate;
    - c. The period of delinquency; and
    - d. That services shall be terminated two (2) weeks from the date of the Notice unless all delinquent fees are paid before the end of the two (2) week period.
- I. Plan for Payment of Delinquent Fees; Consequences of Nonpayment of Delinquent Fees (*EC 8269 and 8273; 5 CCR 18115 and 18116*)
1. The contractor shall accept a reasonable plan from the parent(s) for payment of delinquent fees. The contractor shall continue to provide services to the child, provided the parent(s) pays current fees when due and complies with the provisions of the repayment plan.
  2. Upon termination of services for nonpayment of delinquent fees, the family shall be ineligible for child care and development services until all delinquent fees are paid.

J. Offset of Family Fees Paid to Providers (*EC 8269 and 8273; 5 CCR 18228*)

1. If the contractor's policy allows parents to make direct payments of their fees to the provider, the provider shall submit a copy of the parent's receipt to the contractor;
2. The contractor shall offset the amount of the fee paid by the parent in calculating the reimbursement due to the provider. Offsets shall not be made for co-payments;
3. The contractor shall report the amount of fee collected and retained by the provider as "income" on the fiscal reports;
4. The contractor shall report its reimbursement to the provider along with the amount of fees paid directly by the parent which served in lieu of payment from the contractor to the provider as "expense" on the attendance and expenditure reports.

VI. CONFIDENTIALITY OF RECORDS (*5 CCR 18117*)

The use or disclosure of all information pertaining to the child and his/her family shall be restricted to purposes directly connected with the administration of the program.

The contractor shall permit the review of the basic data file by the child's parent(s) or parent's authorized representative, upon request and at reasonable times and places.

VII. INFORMATION ON CONTRACTOR POLICIES (*EC 8222 and 8261; 5 CCR 18221*)

- A. The contractor shall develop and implement a written policy statement which shall include information regarding:
1. A description of the program's purpose, design, and organization framework;
  2. Priorities for enrollment;
  3. Family eligibility requirements;
  4. Conditions for participation;
  5. Reimbursement of providers, which may include a limitation of 1.5 standard deviations from the mean market rate for the type of care provided as established by the most recent survey of the local resource and referral agency;
  6. Requirements for provider participation;

7. Range of services available including licensed care, sectarian care and exempt care including in-home care:
  - a. In-home exempt providers are classified as domestic service workers under the Fair Labor Standards Act, United States Code, Section 206(f), Title 29, and are covered under minimum wage laws. Contractors must ensure that reimbursement made to a parent, an in-home exempt provider, or jointly to the parent and in-home exempt provider is equivalent to minimum wage and does not exceed the regional market rate ceiling. In order to ensure that the reimbursement and in-home provider receives is equivalent to minimum wage, contractors may establish a policy requiring a minimum number of children in care before in-home child development service can be provided.
8. Parent fee collection policy and procedures including direct reimbursement payment of fees to the provider, if allowable.
9. Voucher or certificate procedures ensuring that the certificate will be easy for the parent to obtain, the provider will receive timely reimbursement for services rendered, and that the parent may use the certificate with any provider at the applicable regional market rate ceiling established by statute (unless the parent is willing to make a co-payment if the provider is above the applicable regional market rate ceiling established by statute).

VIII. INFORMATION TO BE GIVEN TO PARENTS (*EC 8225, 8226, and 8261; 5 CCR 18222 and 18224.2 and 18224.4*)

- A. The contractor shall provide parents with the following information upon enrollment in the program:
  1. The policy statement specified in 5 CCR 18221;
  2. Information regarding the confidentiality of records;
  3. Information regarding grievance procedures for parents, including the Uniform Complaint Procedures;
  4. Information regarding the right of parents to change child care settings;
  5. If the parent(s) speak(s) a language other than English or is (are) hearing impaired, the information shall be provided either through written materials or by presentation of an interpreter in the language the parent understands.
  6. Responsibility to sign and submit the Health and Safety Self-Certification for non-relative license-exempt care and responsibility to sign and submit the Declaration of Exemption from TrustLine Registration and Health and

Safety Self-Certification for care provided by the child's grandparent, aunt, or uncle;

7. Information regarding legal and financial reporting requirements if the parent selects in-home care;
8. Information regarding the voucher or certificate procedures;
9. Within two (2) business days of receiving license suspension or revocation information from the Resource and Referral program, the contractor shall notify in writing the parents utilizing the facility that the reimbursement has been terminated and the reason for the termination.
10. Within two (2) business days of being notified by the Resource and Referral program that a facility has been placed on probation, the contractor shall provide written notice to the parents utilizing the facility that the parents have an option to select a different child day care provider or to remain with the facility without risk of subsidy reimbursement being terminated.
11. When making referrals, the contractor operating both a direct service program and an Alternative Payment Program shall provide at least four (4) referrals, at least one (1) of which shall be a provider over which the contractor has no fiscal or operational control, as well as information on the family's ability to choose a license-exempt provider (*EC 8225*).

#### IX. PROCEDURES FOR PROVIDER PARTICIPATION (*EC 8261; 5 CCR 18223*)

- A. The contractor shall develop and implement written policies and procedures for provider participation which include the following:
  1. Maximizing parental choice with consideration of the contractor's ability to pay for the services within the funding provided in the annual child development contract;
  2. Procedures for ensuring that:
    - a. The provider selected by the parent is licensed or a registered child care provider prior to receiving reimbursement for services;
    - b. License-exempt family child care or in-home providers (except grandparents, aunts and uncles), complete a Health and Safety Self-Certification, and TrustLine application process within fourteen (14) calendar days to select another provider.
  3. Acceptance, rejection and termination of provider participation with the program.
  4. Grievance procedures for parents and providers in the program.

X. WRITTEN MATERIALS TO BE GIVEN TO PROVIDERS (*EC 8261; 5 CCR 18224*)

A. The contractor shall give to all providers the following information:

1. A copy of the contractor's policy statements;
2. A statement prohibiting the provider from engaging in any form of unlawful discrimination;
3. A schedule for when the reimbursement of services will be made which shall be signed by the provider, and
4. Instructions on enrollment and recordkeeping requirements
5. If the provider speaks a language other than English or is hearing impaired, the information shall be provided either through written materials or by presentation of an interpreter in the language that the provider understands.  
5 CCR 18224 (b)

XI. PLAN FOR CONTINUITY OF SERVICES AND EXPENDITURES (*EC 8261; 5 CCR 18225*)

The contractor shall develop and implement a plan to ensure that services are provided to families enrolled in the program continuously throughout the contract period.

XII. PLAN FOR PROVIDERS REIMBURSEMENTS AND CERTIFICATES (*EC 8261; 5 CCR 18226*)

- A. The contractor shall develop and implement a plan for the timely payment to providers. The plan shall include a description of parent fee collection methods in accordance with the policy required by 5 CCR 18221 (b).
- B. Procedures shall include measures to ensure security of certificates and prevent fraud and/or abuse and provide for timely redemption of certificates by either parents or providers.
- C. Within two (2) business days of receiving license suspension or revocation notification from the Resource and Referral program, the contractor shall terminate payment to the affected facility as of the effective date of the suspension or revocation.

XIII. ELIGIBLE PROVIDERS (*EC 8221.5; 5 CCR 18227*)

A. In addition to any other requirements that may be applicable, to be eligible for reimbursement, a provider must be one of the following:

1. A child care center that is:

- a. Licensed, pursuant to Chapter 3.35 of Division 2 of the *HSC*, commencing with Section 1596.70; or
- b. A center operated on tribal or federal lands; or
- c. A center or program exempt from licensure, pursuant to *HSC* section 1596.792(g), (h), (i), (j), (k), or (l), or section 1596.793, that meets the following requirements for reimbursement from an Alternative Payment program:
  - i. Meets minimum attendance and invoice requirements pursuant to *EC* 8221.5; and Provides adult supervision for all children during all hours of operation; and
  - ii. Submits a signed statement to the program director certifying that all employees who have contact with children have completed criminal history background examinations comparable to the criminal history background examinations required by Chapter 3.35 of Division 2 of the *HSC*, commencing with section 1596.60.
- d. A family child care home that is:
  - i. Licensed, pursuant to *HSC*, commencing with section 1596.70; or
  - ii. Providing child care services in a home setting on tribal or federal land.
- e. An individual exempt from licensure, pursuant to *HSC* sections 1596.792(d) or (f), who does not have active tuberculosis and has not been convicted of any crime involving violence against, or abuse or neglect of, children and is:
  - i. Pursuant to *HSC* section 1596.66(a), an aunt, uncle, or grandparent of the child receiving services; or
  - ii. A registered TrustLine provider, pursuant to *HSC* section 1596.605; or
  - iii. A provisional child care provider pursuant to 5 *CCR* 18078(o) who becomes TrustLine registered within 30 calendar days as provided in 5 *CCR* 18227.1.



XIV. PROVISIONAL CHILD CARE PROVIDERS (5 CCR 18227.1)

- A. A family may select a provisional child care provider as defined in 5 CCR 18078(o) if there is an immediate need for child care.
- B. A family may use a provisional child care provider during a single 30 calendar day period. The first day on which child care services are provided marks the beginning of this thirty (30) day period.
- C. At the conclusion of thirty (30) consecutive calendar days the provisional child care provider must become TrustLine registered and, if so, may be reimbursed for child care services performed or the parent shall select an eligible provider who can meet the parent's need for care.

XV. NOTIFICATION OF INELIGIBLE STATUS OF A LICENSE-EXEMPT PROVIDER (5 CCR 18224.6)

- A. A license-exempt provider shall not be eligible to receive reimbursement for child care and development services when an Alternative Payment program is notified by the California Child Care Resource and Referral (R&R) Network that the provisional child care provider's:
  - 1. TrustLine case has been closed; or
  - 2. TrustLine application has been denied; or
  - 3. TrustLine application has not been approved within the thirty (30) day period pursuant to 5 CCR 18078(o).
- B. A license-exempt provider shall not continue to receive reimbursement for child care services when an Alternative Payment Program:
  - 1. Is notified by the R&R Network that the provider's TrustLine registration has been revoked; or
  - 2. Receives reliable and documented information that a license-exempt provider has:
    - a. Active or contagious tuberculosis; or
    - b. Been convicted of any crime involving violence against, or abuse or neglect of, children.
- C. Upon receipt of any of the documented information the Alternative Payment program shall terminate reimbursement to the provider for services provided as of the effective date on the TrustLine revocation notice or the date on which the Alternative Payment Program received reliable and documented information of active or contagious tuberculosis or of a conviction of any crime involving violence

against, or abuse or neglect of, children. The provider will be reimbursed for services provided through the effective day of the TrustLine revocation or the day of receipt of documentation of active or contagious tuberculosis, or a conviction of any crime involving violence against, or abuse or neglect of, children.

- D. Upon receipt of the information, the Alternative Payment Program shall do all of the following:
1. Notify in writing both the provider and the parent of the child receiving services that the payment has been denied or terminated, as applicable, and the reasons for the denial or termination; and
  2. Refer the parent to the local Resource and Referral Program for assistance with finding a new provider; and
  3. Document the action and retain the documentation and make it available to the CDE upon request. When this action affects the provider of a current CalWORKs cash aided parent, the program shall inform the local county welfare department if services cannot be transferred to another provider without a gap in services.

XVI. RECORDS ON FILE CONCERNING IN-HOME SERVICE PROVIDERS (*EC* 8261 and 8269; 5 *CCR* 18230)

- A. If the contractor's policies allow payment for in-home care, the contractor shall maintain in its file the following records concerning in-home care providers:
1. A description of the caregiver's qualifications and work experience obtained during a personal interview with the care-giver;
  2. A declaration by the care giver that he or she is in good health;
  3. A signed statement from the parent verifying that the parent has interviewed and approved of the caregiver.
  4. A California driver's license number or other valid and recognized form of identification to verify that the caregiver is at least eighteen (18) years of age.

XVII. RECORDS ON FILE CONCERNING LICENSED SERVICE PROVIDERS (*CFR*, 98.31; *EC* 8261; 5 *CCR* 18231)

- A. The contractor shall maintain in its files the following records concerning each licensed service provider:
1. A statement of the service provider's current fees with information regarding the provider's usual and customary services provided for those fees;

2. A statement signed by the provider that the child care and development services being provided do not include religious instruction or worship;
3. A document that contains the rate and schedule of payment for approved services that is signed by both the service provider and the contractor;
4. A copy of the facility license that shows the authorized capacity of the facility;
5. The name, address and telephone number of the service provider;
6. The age group(s) served by the provider;
7. A declaration by the provider that the parents have unlimited access to their children and providers caring for their children during normal business hours of provider operation and whenever the children are in the care of the provider.

#### XVIII. PARENTAL COMPLAINTS IN LICENSE-EXEMPT CHILD CARE SETTINGS

- A. Parents with children in license-exempt care may make a complaint against the license-exempt provider using the following process:
  1. The complaint must be written and shall include the nature of the complaint, the date and approximate time of the occurrence and the name and address of the provider about whom the complaint is made and shall be signed by the parent. Only complaints received about health and safety noncompliance will be accepted. These complaints shall be deemed substantiated solely by the parent's written declaration.
  2. Upon receipt of a complaint, the contractor shall inform the license-exempt provider of the parent's complaint and inform the provider of the provider's right to submit a written rebuttal. The contractor must also notify the parent and the provider that reimbursement will cease in fourteen (14) days unless a written declaration signed by both parties has been received by the contractor stating that the health and safety deficiency has been corrected. The contractor will also advise parents that serious health and safety concerns should be referred to the appropriate child protection services unit of the county welfare department.
  3. The contractor must maintain a record of parental complaints concerning a license-exempt provider's failure to meet the health and safety standards as specified in the Health and Safety Self-Certification. Upon receiving an inquiry about a specific license-exempt provider, the contractor shall inform the requestor of the general nature of the complaint and whether or not the provider submitted a rebuttal.

4. The parental complaint process for license-exempt providers shall be included in both the parent handbook and written information for provider participation.

XIX. IN-HOME CARE (Fair Labor Standards Act (FLSA) Requirement Title 29, U.S. Section 206)

- A. Contractors shall ensure that, for license-exempt individuals providing subsidized child care services in the home of the child, the sum of the subsidy reimbursement, the family fee, and any additional parent payment is equal to or greater than the applicable state local minimum wage. At the time that a child(ren) is enrolled or at re-certification, the contractor shall ensure the minimum wage requirement is met through one of the following:
  1. Determine the minimum number of children or combination of children by reimbursement-age category needed for reimbursement, inclusive of any parent fee, to meet or exceed minimum wage. Note: The contractor may adopt policies identifying the minimum number of children needed to meet this requirement.
  2. Divide the estimated reimbursement, inclusive of any parent fee, by the estimated hours to be worked for that period to determine if the quotient meets or exceeds the minimum wage. Note: Use hours to be worked, not hours per child for whom care is provided.
  3. If the parent chooses to be the employer, require the parent to submit copies of employer documents filed with the appropriate federal and state agencies, copies of check stubs to the provider, and copies of any required withholding tax payments for an amount that in conjunction with the reimbursement, inclusive of any parent fee, equals or exceeds minimum wage. (Note: In this case, reimbursement should be in the form of a two-party check to both the parent and the provider.)

XX. INFORMATION TO SHARE WITH THE PARENTS

Effective on January 1, 2007, each child care facility shall permanently post, in a prominent location, information about the registered sex offender database that is available on the Megan's Law Web site, <http://www.meganslaw.ca.gov>, and give families one of the two licensing forms (LIC 995 or 995A, Notification of Parents' Rights) provided by the State Department of Social Services.

XXI. DUE PROCESS REQUIREMENTS

- A. Notice of Action, Application for Services (*EC* 8261 and 8263; 5 *CCR* 18094, 18095, 18118, 18119 and 18120)
  1. The contractor's decision to approve or deny services shall be communicated to the applicant by mailing or delivering a completed

statement referred to as a Notice of Action, Application for Services within thirty (30) calendar days from the date the application is signed by the parent(s). The Notice of Action, Application for Services shall include:

- a. The applicant's name and address;
  - b. The contractor's name and address;
  - c. The name and telephone number of the contractor's authorized representative who made the decision;
  - d. The date of the notice;
  - e. The method of distribution of the notice.
2. If services are approved, the notice shall also contain:
- a. Basis of eligibility;
  - b. Daily/hourly fee, if applicable;
  - c. Duration of the eligibility;
  - d. Names of children approved to receive services; and
  - e. Hours of service approved for each day.
3. If the services are denied, the notice shall contain:
- a. The basis of denial; and
  - b. Instructions for the parent(s) on how to request a hearing if they do not agree with the contractor's decision in accordance with procedures specified in 5 CCR 18120 and 18121;
  - c. For eleven (11) and twelve (12) year olds who are otherwise eligible except for their age, the notice shall include:
    - i. Information to parents that their child can receive first priority for enrollment in an After school Education and Safety (ASES) program or 21st Century Community Learning Centers at the child's school of attendance, and may be able to receive services in a program located at another school in the district. If programs are full, these children will be given first priority on the waiting list for these programs;

- ii. A statement advising parent(s) that in order to receive first priority for services, a copy of the NOA must be provided to the ASES or 21st Century program at the time of enrollment;
- iii. A list of programs along with contact information for before and after school programs located in the family's community.

B. Notice of Action, Recipient of Services (*EC 8261 and 8263; 5 CCR 18095*)

1. If upon re-certification or update of the application, the contractor determines that the need or eligibility requirements are no longer being met, or the fee or amount of service needs to be modified, the contractor shall notify the family through a written Notice of Action, Recipient of Services. The contractor shall maintain copies of all Notices of Action, Recipient of Services in the family's family data file. The Notice of Action, Recipient of Services shall include:
  - a. The type of action being taken;
  - b. The effective date of the action;
  - c. The name and address of the recipient;
  - d. The name and address of the contractor;
  - e. The name and telephone number of the contractor's authorized representative who is taking the action;
  - f. The date the notice is mailed or given to the recipient;
  - g. The method of distribution to the recipient;
  - h. A description of the action;
  - i. A statement of the reason(s) for the changes;
  - j. A statement of the reason(s) for termination, if applicable;
  - k. Instructions for the parent(s) on how to request a hearing if they do not agree with the contractor's decisions in accordance with procedures specified in 5 CCR 18120 and 18121;
  - l. If termination is due to a child reaching his 11th (eleventh) birthday, the contractor shall:
    - i. Information to parents that their child can receive first priority for enrollment in an Afterschool Education and Safety (ASES) program or 21st Century Community Learning Centers at the

child's school of attendance, and may be able to receive services in a program located at another school in the district. If programs are full, these children will be given first priority on the waiting list for these programs;

- ii. A statement advising parent(s) that in order to receive first priority for services, a copy of the NOA must be provided to the ASES or 21st Century program at the time of enrollment;
- iii. A list of programs along with contact information for before and after school programs located in the family's community.

C. Changes Affecting Services (*EC 8263(c)*; 5 *CCR 18119*)

1. The contractor shall complete a Notice of Action, Recipient of Services when changes are made to the service agreement. Such changes may include, but are not limited to, an increase or decrease in parent fees, an increase or decrease in the amount of services, or termination of service;
2. The contractor shall mail or deliver the Notice of Action to the parents at least fourteen (14) calendar days before the effective date of the intended action whenever:
  - a. The contractor has factual information that confirms the death of the parent or the child;
  - b. The contractor receives notification from the parent that the parent no longer wants the service;
  - c. The agreement for services was a limited term authorization which has come to the end of the term, and at the time of approval of the limited term authorization, the parent was informed in writing of the date services would terminate; or
  - d. The parent does not provide eligibility or need information after a written request by the contractor.

If the Notice of Action is mailed, the fourteen (14) calendar day period is extended by five (5) calendar days, which establishes a presumption that the parent received the Notice of Action.

3. To promote the continuity of child care and development services, a family that no longer meets a particular program's income, eligibility or need criteria may have their services continued if the contractor is able to transfer that family's enrollment to another state of federally funded program for which the family continues to be eligible prior to the date of termination of services. The transfer of enrollment may be to another program within the

same contracting agency or to another agency that administers state or federally funded child care and development programs.

D. Parents Request for a Hearing; Rules and Procedures (*EC 8261; 5 CCR 18120*)

1. If the parent disagrees with an action, the parent(s) may file a request for a hearing with the contractor within fourteen (14) calendar days of the date the Notice of Action was received.
2. Upon the filing of a request for hearing, the intended action shall be suspended until the review process has been completed. The review process is complete when the appeal process has been exhausted or when the parent(s) abandons the appeal process.
3. Within ten (10) calendar days following the receipt of the request for a hearing, the contractor shall notify the parent(s) of the time and place of the hearing. The time and place of the hearing shall, to the extent possible, be convenient for the parent(s).
4. The hearing shall be conducted by an administrative staff person who shall be referred to as "the hearing officer". The hearing officer shall be at a staff level higher in authority than the staff person who made the contested decision.
5. The parent(s) or parent's authorized representative is required to attend the hearing. If the parent or the parent's designated representative fails to appear at the hearing, the parent will be deemed to have abandoned his or her appeal.
6. Only persons directly affected by the hearing shall be allowed to attend.
7. The contractor shall arrange for the presence of an interpreter at the hearing, if one is requested by the parent(s).
8. The hearing officer shall explain to the parent(s) the legal, regulatory, or policy basis for the intended action.
9. During the hearing, the parent(s) shall have an opportunity to explain the reason(s) they believe the contractor's decision was incorrect. The contractor's staff shall present any material facts omitted by the parent(s).
10. The hearing officer shall mail or deliver to the parent(s) a written decision within ten (10) calendar days after the hearing. The written decision shall contain procedures for submitting an appeal to the CDE.



E. Appeal Procedure for CDE Review (*EC 8261; 5 CCR 18121*)

1. If the parent disagrees with the written decision from the contractor, the parent has fourteen (14) calendar days in which to appeal to the CDE.
2. If the parent(s) do(es) not submit an appeal request to the CDE within fourteen (14) calendar days, the parents' appeal process shall be deemed abandoned and the contractor may implement the intended action.
3. The parent(s) shall specify in the appeal request the reason(s) why he/she believes the contractor's decision was incorrect.
4. A copy of the contractor's notice of intended action and written decision shall be submitted by the parent(s) with the appeal request.
5. Upon receipt of an appeal request, the CDE may request copies of the family data file and other relevant materials from the contractor. The CDE may also conduct any investigations, interviews or mediation necessary to resolve the appeal.
6. The decision of the CDE shall be mailed or delivered to the parent(s) and to the contractor within thirty (30) calendar days after receipt of the appeal request.

F. Contractor Compliance with the CDE Decision; Reimbursement for Services During the Appeal Process (*EC 8261; 5 CCR 18122*)

1. The contractor shall comply with the decision of the CDE immediately upon receipt thereof.
2. The contractor shall be reimbursed for child care and development services delivered to the family which is appealing during the appeal process.
3. If a contractor's determination that a family is ineligible is upheld by the CDE, services to the family shall cease upon receipt of the CDE's decision by the contractor.

**MIGRANT ALTERNATIVE PAYMENT PROGRAM  
QUALITY REQUIREMENTS  
Fiscal Year 2016–2017**

- I. PROGRAM PHILOSOPHY, GOALS AND OBJECTIVES (*EC 8261; 5 CCR 18271*)
  - A. Each contractor shall have a written philosophical statement and goals and objectives that support that philosophy. The governing body of each contractor shall approve the program philosophy, goals and objectives.
  - B. The goals and objectives shall address the requirements contained in this article.
  - C. The goals and objectives shall reflect the cultural and linguistic characteristics of the families served by the contractor.
- II. STAFF DEVELOPMENT PROGRAM (*EC 8261; 5 CCR 18274*)
  - A. Each contractor shall develop and implement a staff development program that includes the following:
    - 1. Identification of training needs of staff;
    - 2. Written job descriptions;
    - 3. An orientation plan for new employees;
    - 4. An annual written performance evaluation procedure unless a different frequency of performance evaluations is specified in a contractor's collective bargaining agreement with their employees;
    - 5. Staff development opportunities that include topics related to the functions specified in each employee's job descriptions and those training needs identified by the contractor; and
    - 6. An internal communication system that provides each staff member with the information necessary to carry out his or her assigned duties
- III. COMMUNITY INVOLVEMENT (*EC 8261; 5 CCR 18277*)
  - A. Each contractor shall include in its program a community involvement component which shall include, but not be limited to, the following:
    - 1. Each contractor shall solicit support from the community including the solicitation for donated goods and services;
    - 2. Providing information to the community regarding the services available. Contractors may utilize media or other forms of communication in the community.

#### IV. PROGRAM SELF-EVALUATION PROCESS (*EC* 8261; 5 *CCR* 18270.5 and 18279)

- A. Each contractor shall develop and implement an annual plan for its program self-evaluation process. The annual plan shall include the following:
1. A self-evaluation based on the use of the *CCR*;
  2. An assessment of the program by staff and board members as evidenced by written documentation;
  3. A written list of tasks needed to modify the program in order to address all areas that need improvement (5 *CCR* 18279(b)(4));
  4. Procedures for the ongoing monitoring of the program to assure that areas of the program that are satisfactory, continue to meet standards, and areas requiring modification (5 *CCR* 18279(b) (5)) are addressed in a timely and effective manner;
  5. The contractor shall use the Agency Annual Report (5 *CCR* 18270.5(a)), to submit a summary of the findings of the program self-evaluation to the CDE by June 1 of each year.
  6. The contractor shall modify its program to address any areas identified during the self-evaluation as needing improvement.

#### V. SUPPORT SERVICES

- A. In addition to the quality indicators contained in the Program Quality Requirements, the contractor shall provide services as required by *EC* 8232. Funding for these services is included in a separate local agreement (CMSS) and is not earned through provision of service but must be spent on reimbursable costs for the activities listed below:
1. Social Services;
  2. Bilingual liaison between migrant parents and the center or family child care home, or both;
  3. Liaison with relevant community agencies and organizations, including health and social services;
  4. Identification and documentation of family needs and follow-up referrals as appropriate;
- B. Staffing
1. Bilingual health personnel shall be available to each program site;

2. Professional and nonprofessional staff shall reflect the linguistic and cultural background of the children being served;
3. Whenever possible, migrants will be recruited, trained and hired in the program. Documentation of training and career ladder opportunities and of recruitment and hiring efforts shall be provided to the Early Education and Support Division (EESD). Staff training shall include principles and practices of child care and development for the age groups of children being served.

C. Health Services

Health services shall include health and dental screening and follow-up treatment. Health records for all migrant children shall follow the child.