



CHILDREN LEARNING, PARENTS EARNING, COMMUNITIES GROWING 1451 River Park Drive, Suite 185, Sacramento, CA 95815 Phone: (916) 567-6797

October 29, 2019

CAPPA Board of Directors

SENT VIA ELECTRONIC EMAIL TO: regcomments@cde.ca.gov

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Patricia Alverson, Regulations Coordinator
Administrative Support and Regulations Adoption Unit
California Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814

Dear State Plan Public Hearing Coordinator:

On behalf of the California Alternative Payment Program Association (CAPPA), the following input is respectfully submitted for consideration as it relates to the 12-Month Eligibility and CalWORKs (ELCD) 15-Day Notice of Proposed Regulations released on October 15, 2019.

Before noting specific input and suggestions on the proposed language, we felt there were many missed opportunities of crafting language that captures and maximizes the use of technology in a way that supports families. Throughout the proposed regulations was repeatedly noted that families must “write” and submit “written materials.” To not recognize the case law and existing California statutes that incorporates all available communication and technology (phone, email, text, fax, etc.) tools that support delivery of the program to families as well as provides various ways of families to communicate back to agencies is concerning.

Additionally, the focus throughout the document of families needing to submit a “written request” for changes, aside from the above noted, is also overly burdensome to families while failing to capture existing requirements for issuing a Notice of Action (NOA). Candidly, regardless of how a family communicates to a caseworker, if there is any change in family circumstances, the California Department of Education has a menu of Notice of Actions (NOAs)¹ that must be issued to the family as well as memorializing in a family’s case notes. So regardless of how the family communicates to the caseworker, changes will already be captured by an existing and well understood process – case notes or issuance of a NOA. Based on this, we strongly ask CDE to reconsider putting more oneness on fragile families to submit all in writing.

Finally, as you read our input and recommendations, we ask that you review each section being proposed or amended from the lens of a parent. Our families are struggling to balance many issues on a day-to-day basis. It is hugely important that regulations being pursued be written as clear as possible so that our families, contractors, attorneys and CDE staff can read the same words and have the same understanding. Regulations must value the expertise of the contractors that support each unique and diverse population and allow those contractors to develop policies that best support the families that are served. Proposed regulations must be crafted to help support families maintaining their child care, not be so prescriptive and burdensome to families that cause them to be ineligible if not explicitly followed.

Below are the referenced areas and specific input.

¹ <https://www.cde.ca.gov/sp/cd/ci/cddnoas.asp>



- **PAGE 4 - 18078(l)(2) Definitions: Income Fluctuation**

(2) Inconsistent, and/or unstable and/or variable employment, or self-employment resulting in an inconsistent pattern of income; or

INPUT: This language as amended still lacks clarity. For instance, does the language as written mean that ALL self-employment or just inconsistent/and or stable self-employment is considered “income fluctuation”? This definition is unclear and suggests that any variation in income for a parent paid hourly could be considered fluctuating, and 12-months of income information would have to be collected per the section on calculation of income later in this document.

- **PAGE 5 – 18078 (t) Definitions: Self-Certification of Income**

(t)(s)(e) “Self-Certification of Income” means a declaration signed by the parent under penalty of perjury identifying: to the extent known, the employer’s name, address, start date of work, the rate and frequency of pay, the total amount of income received for the preceding month(s), the type of work performed, and the hours and days worked.

INPUT: This definition is specific to employment. However in 18084 (4) Documentation of Income Eligibility; Income and Family Fees It states the parent shall also provide documentation of all non-wage income, which includes, self-certification of any income for which no documentation is possible, and any verified child support payments as defined in section 18078.

For clarity, suggest that it be written as follows:

(t)(s)(e) “Self-Certification of Income” means a declaration signed by the parent under penalty of perjury identifying:

(1) the employer’s name, address, start date of work, the rate and frequency of pay, the total amount of income received for the preceding month(s), the type of work performed, and the hours and days worked.

(2) for which no documentation is possible, the income source, the amount received, and the frequency of the income.

- **PAGE 7 - 18078(u) Definitions: Variable Schedule**

(u) “Variable schedule,” as provided in Education Code section 8221.5, means a schedule in which the total number of hours worked each week is inconsistent and/or unstable.

INPUT: Focus on a family strength based approach. The proposed language lacks clarity and consistency in use of terminology that could result in unintended outcomes applied to families. By defining “variable schedules” as inconsistent and/or unstable, then that implies that variable schedules would be lumped into the definition of income fluctuation (above 18078(l)(2)) which then means that ANYONE with a “variable schedule” has to supply 12-months of income (18084.1(c)(2)). Finally, delete the words as provided in Education Code section 8221.5 as Education Code does not use that reference.

- **PAGE 8 - 18081(c)(3) Family Data File: Health Info**

(3)(e) For all center-based contractors, including those that provide services through a Family Child Care Home Education Network, and licensed family child care homes The family data file shall contain all child health and current emergency information required by California Code of Regulations, title 22, Social Security, Division 12, and

Community Care Facilities Licensing Regulations, ~~with the following exception. Immunization records are not required to be in the family data file for children attending a public or private elementary school or for children receiving care in licensed facilities and reimbursed pursuant to Education Code sections 8220 and 8350.~~

INPUT: The proposed language lacks clarity and reference. “For all center based contractors”, does this include General Child Care and Development (**CCTR**) or just actual State Preschools or both? Any center based direct service provider would collect such information.

• **PAGE 9 - 18081(c)(4)(i-ii): Exempt Health Info**

(4) For all Alternative Payment Programs, inclusive of CalWORKs Stage 2 and 3 Child Care Programs, the family data file shall contain all child health and current emergency information required by California Code of Regulations, title 22, Social Security, division 12, and Community Care Facilities Licensing Regulations. However immunization records are not required for children attending a public or private school or for children receiving care in licensed facilities, including licensed family child care homes, and reimbursed pursuant to Education Code sections 8220 and 8350. Immunization records are required for the following situations:

(i) The child is receiving in-home care and other unrelated children are cared for in the same setting; or

(ii) The child is being cared for by relatives where other unrelated children are cared for in the same setting.

INPUT: The proposed language lacks clarity, necessity and reference. For an AP contractor, there is not a definitive way to know if a relative provider was also caring for an unrelated child unless that unrelated child was also on the AP program. The above language also requires AP contractors that do not directly provide care for children collect and retain health and emergency information. This information is collected by the direct child care providers both public and private. Further testament to this, is CDE MB 18-04² that specifically made note that Alternative Payment Programs are not required to collect immunization records for homeless children and youth. The clarity and AP exclusion clearly demonstrates that such a requirement of one directly caring for the child but solely focused on eligibility of a family to choose a provider that best supports their need could provide a hardship and a delay of services for a family.

Additionally, in the final rule to the Child Care and Development Fund (CCDF) based on the Child Care and Development Block Grant of 2014³, “§ 98.41 HEALTH AND SAFETY REQUIREMENTS, Section 658E(c)(2)(I)(i) of the Act requires Lead Agencies to have in effect health and safety requirements for providers and caregivers caring for children receiving CCDF assistance that relate to ten health and safety topics: (i) Prevention and control of infectious diseases (including immunization).”

• **PAGE 10 - 18082(c): Initial Certification: Disenrollment Exceptions**

(c) Except as otherwise provided for in law or regulation, disenrollment cannot occur prior to the end of the 12-month certification period, with the following exceptions:

(1) When the recalculation of income, pursuant to section 18082.2, based on the provided documentation indicates that the family’s adjusted monthly income exceeds the income threshold set forth in Education Code section 8263.1 and the family does not meet the requirements for another eligibility basis pursuant to section 18083;

(2) When the parent changes residency outside of California; or

(3) When there is substantiated evidence of fraud that invalidates the initial certification and the family is not otherwise eligible.

² <https://www.cde.ca.gov/sp/cd/ci/mb1804.asp>

³ <https://www.federalregister.gov/documents/2016/09/30/2016-22986/child-care-and-development-fund-ccdf-program>

(d) Families disenrolled prior to the last day of the 12-month certification period shall be issued a Notice of Action for disenrollment pursuant to section 18095.

INPUT: For consistency and clarity add “**(4) Abandonment of care and (5) Parent request**”. Further, this language does not include language to allow a contractor to dis-enroll families during their 12-month eligibility period for failure to pay family fees. If not addressed, this silence in practice could result in an undue burden for the families at the time of their recertification, as they may have thousands of dollars of outstanding family fees that need to be paid in order to recertify. It is therefore proposed to include language that allows contractors to dis-enroll families during the not less than 12-month eligibility period for failure to follow board-approved policies as long as they are not in conflict with state or federal law. Also, to reference existing practice is CDE Form CD-7617 (Rev 7/14). Finally in (3), note a period after “certification” and delete “~~and the family is not otherwise eligible.~~” In review of abandonment of care, it is important to reference this as California’s Lead Agency provides for sub grantees to set policies (e.g. attendance) and may discontinue care for non-attendance.

• **PAGES 11 & 12 - 18082.1(e) Recertification: Disenrollment Exceptions**

(e) Except as otherwise provided for in law or regulation, disenrollment cannot occur prior to the end of the 12-month certification period, even if disqualifying information is discovered during the preliminary collection of documentation for recertification, with the following exceptions:

(1) When the recalculation of income, pursuant to section 18082.2, based on the provided documentation indicates that the family’s adjusted monthly income, adjusted for family size, ~~has exceeded 85 percent of the SMI exceeds the income threshold set forth in Education Code section 8263.1~~ and the family does not meet the requirements for another eligibility basis pursuant to section 18083; or

(2) When the parent changes residency outside of California; or

(3) When there is substantiated evidence of fraud that invalidates the ~~prior determination of initial certification~~ ~~for~~ recertification.

INPUT: For consistency and clarity add “**(4) Abandonment of care and (5) Parent request and (6) Delinquent fees⁴**”.

• **PAGE 12 - 18082.1(g) Recertification: Convenience**

(g) The contractor shall make every effort to make the recertification process ~~easier~~ ~~convenient for~~ ~~en~~ families by providing ~~early morning, evening, and~~ weekend appointments, ~~or and~~ appointments at alternative locations as needed.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261, 8263, and 8263.1, Education Code; 45 Code of Federal Regulations Section 98.21.

INPUT: This language goes outside of any reference from a statute, court decision, or other provision of law that must be noted for such language to be adopted. The above language is unclear. It is recommended that this language be included (g) The contractor shall make every effort to accommodate the needs of family by supporting if possible appointments outside of agency operational hours.

Regulating contractors’ open days and hours is excessive and creates an excessive burden, and most importantly is unnecessary. Most contractors are already extremely flexible with their appointment times and allow children to be brought in with parents. It ought not to be in the state’s interest to make the recertification more prescriptive and not explicitly accommodating to parents.

⁴ Plan for Payment of Delinquent Fees; Consequences of Nonpayment of Delinquent Fees (EC 8269, 8273, 5 CCR 18115, 18116)

Finally, to best support the real needs of families with recertification include commonly used technology to that best supports the needs of families inclusive of real time digital interactions. By recognizing all communication options, families that struggle with geographic, climate and transportation constraints will be better supported.

- **PAGES 12 & 13 - 18082.2 Income Exceeds Threshold**

§ 18082.2. Requirement to Report when Income Exceeds 85 Percent of the Statutory Threshold of the State Median Income.

(a) When a family is initially certified or recertified on the basis of income eligibility, the contractors shall:

(1) Provide the parent a copy of the calculation worksheet that verifies the family is income eligible; and

(2) Provide the parent with a copy of the most recent Schedule of Income Ceiling eligibility table ~~for~~

recertification, as published by the SSPI;

(3) Notify the parent in writing of the following:

(A) The maximum adjusted monthly income, adjusted for family size, and taking into account fluctuations in income pursuant to section 18084.1(c), excluding any income fluctuations, pursuant to section 18084.1(c), that the family could earn before the family would be disqualified for services, based on on-going eligibility requirements; and

(B) The requirement to notify the contractor, within 30 calendar days, of any current and on-going income change that causes the family's adjusted monthly income, adjusted for family size, to exceed this maximum amount.

(b) Upon notification by the parent that they may have exceeded the maximum income threshold limitation, the contractor shall utilize the process set forth in sections 18084 and 18084.1 to recalculate the family's adjusted monthly income, adjusted for family size, to determine if the family remains income eligible for continued services.

Why? What would trigger a different status?

(1) If the contractor determines, based on the provided documentation, that the family is still income eligible for services, the contractor shall inform the family in writing.

(2) If the contractor concludes the family is no longer income eligible based upon the documentation provided by the parent or the parent fails to provide the documentation as requested by the contractor within 15 calendar days from the day of the parent's notification and the family does not establish another basis for eligibility based on documentation, the contractor shall issue a Notice of Action to disenroll the family pursuant to section 18095.

(3) If the contractor concludes the family remains eligible for services based on documentation supporting another basis of eligibility, the contractor shall issue a Notice of Action approving services on the new basis for eligibility pursuant to section 18095.

Note: Authority cited: Sections 8261, 8263 and 8269, Education Code. Reference: Sections 8261, 8263 and 8263.1, Education Code; 45 Code of Federal Regulations Section 98.21.

INPUT: The above language as written is very confusing to decipher especially as it may relate to those families with fluctuating income. Clarity is also needed to specify if language applies to children removed by CPS, change in custody status, and foster care changes.

(a)(1): Suggest removing entire line item. It is absolutely unnecessary to mail a copy of the income calculation worksheet to the parent. The parent receives an NOA. If they disagree with the action they can appeal. This is a waste of paper and time and does nothing to promote children and families. Additionally, this requirement is not in C2AP 184102 or C3AP 18425.2

(2): Suggest removing entire line item. Parents want to know the maximum income not the multiple pages of the actual Schedule. Similar to above waste of resources and unnecessary if they receive (3)(A).

(B)(b): Delete proposed language. There is no reference for this language. Further there is not an understanding

of a situation that would trigger a different status.

(b)(1): Suggest to strike last part of sentence and replace with “services shall continue”.

(b)(2): Suggest that 15 calendar days be removed and line item would just read “as requested by contractor”.

• **PAGE 14 - 18082.3. A Family’s Right to Voluntarily Request Changes.**

(b) (2) Within 10 business days after receipt of applicable documentation, issue a Notice of Action pursuant to section 18095, ~~within 10 business days after receipt of applicable documentation; and~~

(d) (2) Within 10 business days after receipt of applicable documentation, issue a Notice of Action pursuant to section 18095, ~~within 10 business days after receipt of applicable documentation; and~~

INPUT: There is a lack of clarity and reference for use of the 10 business days. There is concern about the need for this language. Contractors already have a process in place to support voluntary changes from families. Having the 10 business days noted above may create a conflict with other areas of law that reference a 14-day notice period. Inconsistent day requirements could potentially lead to administrative errors and the potential to error funding.

Finally, questions came up from the field about real day situations where families do not provide adequate information to make the change. In such situations, to include the word “adequate” would allow contractors the opportunity to develop operational best practices to realize the most beneficial outcomes for families and children.

• **PAGES 14 & 15 - 18082.3(e) and (f): Voluntarily Request Changes - Decrease Certified Schedule**

(e) When a family voluntarily requests a reduction to ~~its~~ **their certified schedule service level**, the parent shall:

(1) Submit a written request that includes:

(A) Days and hours per day requested;

(B) ~~Effective Date~~ **of the proposed reduction of their certified schedule service level**; and

(2) Acknowledge in writing that they understand that they may retain their current ~~service level~~ **certified schedule**.

(f) Upon receipt of the parent’s written request in subsection (e), the contractor shall:

(1) Notify the family in writing of the parent’s right to continue to bring ~~her or his~~ **the enrolled** child pursuant to the original certified ~~schedule service level~~; and

(2) Use the documentation provided by the parent to support the requested changes, as applicable;

(3) Issue a Notice of Action pursuant to section 18095 ~~within 14 or 19 days prior to the effective date of action~~; and

(4) Only use any information received to ~~reduce their certified schedule~~ **make the requested change**. No other changes to the ~~service agreement~~ **certified schedule** shall be made.

NOTE: Authority cited: Sections 8261, 8263 and 8269, Education Code. Reference: Sections 8261, 8263 and 8263.1, Education Code; 45 Code of Federal Regulations Section 98.21.

INPUT: Requiring a hand written communication is burdensome, archaic and does not reflect current laws and more widely use electronic communications that satisfy the same and more integrity of the hand written word.

Cross-reference California Corporations Code 5079⁵ that states “Written” or “in writing” includes facsimile, telegraphic, and other electronic communication as authorized by this code, including an electronic transmission by a corporation that satisfies the requirements of Section 20.

Further, dating back to AB 274, Chapter 733, Statutes of 2013, added California *Education Code (EC)* sections 8227.3 and 8262.1 to authorize Early Learning and Care Division (ELCD) contractors to electronically maintain records that were originally created in an electronic format. See the California Department of Education (CDE) MB 13-10 Web page at <https://www.cde.ca.gov/sp/cd/ci/mb1310.asp>.

On October 4, 2015, AB 271 was signed by the Governor and amended *EC* sections 8227.3 and 8262.1 to allow records not originally created in electronic format to be maintained in electronic format. It also added *EC* Section 8227.5 to allow Alternative Payment Program contractors to use digital signatures and provided that the use of a digital signature has the same force and effect as a manual signature. See the CDE MB 16-01 Web page at <https://www.cde.ca.gov/sp/cd/ci/mb1601.asp>.

On August 19, 2016, AB 2296 was signed by the Governor and clarified that a digital signature may be used to satisfy the requirements of an electronic signature for purposes of the Uniform Electronic Transactions Act (UETA). See the CDE MB 17-03 Web page at <https://www.cde.ca.gov/sp/cd/ci/mb1703.asp>.

On September 13, 2016, the Governor signed AB 1712, amending *EC* Section 8262.1 to allow center-based contractors to also use digital signatures and to provide that the use of a digital signature has the same force and effect as a manual signature. See the CDE MB 17-04 at <https://www.cde.ca.gov/sp/cd/ci/mb1704.asp>.

On June 27, 2017, AB 99, Chapter 15, Statutes of 2017, enacted with this year’s budget, added *EC* sections 8227.6 and 8262.2, providing that both alternative payment program contractors and center-based contractors may use digital forms to allow families to apply for services. This legislation was one of the recommendations that came out of the AB 104 workgroup.

Respectfully submitted input from the field noted, “The written requirement for a parent to voluntarily reduce their certified schedule is archaic, punitive and fiscally irresponsible. This is a hardship for families and implies that the contractor is somehow taking away benefits. Families do NOT like this Regulation. They do NOT understand why they can’t simply reduce their schedule without having to jump through several hoops that may (especially in rural communities) be very difficult to navigate.”

(e) Suggest removing the word “certified” as it creates the confusion about the need to update the certificate on file. When a family requests a voluntary reduction, this can be captured in case notes or a Notice of Action without the need to reissue a certificate.

(e)(1) Suggest that a parent shall submit a “verbal, written or electronic request”

(e)(2) Suggest that the request acknowledge “verbally, in writing or electronically”

(f)(1) Suggest removing entire line item. Unclear why we would have to reiterate again after the parent already

5

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CORP§ionNum=5079.&highlight=true&keyword=written+includes

acknowledge above (e)(2)

• **PAGE 15 - 18083(b): Application for Services**

(b) The names and birth dates of all children under the age of ~~eighteen (18) years~~ 18 years in the family, as defined in section 18078(g), whether or not they are served by the program;

INPUT: This line item states the application shall include names and birth dates for children under 18. Suggest that this be changed to all children “included in the family size”. Children over 18 still in high school can still be counted in the family size with documentation and children with documented severe handicaps and/or exceptional needs can be included much longer.

• **PAGE 19 – 18084. Documentation of Income Eligibility; Income**

~~(a)3 (B) A copy of the most recently signed and completed tax return with a statement of current estimated income for tax purposes, or~~

INPUT: For consistency in regulations, this language should be added back in and included for both self-employed parents as well as for employed parents. It is customary for self-employed individuals to use tax returns to verify income. Additionally, there is concern and simply noting a recently signed and completed tax return does not mean that the actual return was submitted and or filed.

Additionally, there is concern of lack of language that captures work history, those that have not worked for the last two months and how to treat individuals who have had changes and are not able to sufficiently supply income history. Language must be developed that provide ability to project income out.

Further, for consistency in determination of income, it should align with the language proposed on PAGE 25, **18086. Documentation of Need; Employment.**

• **PAGE 20 - 18085.5. Documentation of Need: ~~Based on Employment, Seeking Employment, Training, Seeking Housing, and Incapacity;~~ In General.**

INPUT: As proposed, this language in this section does not allow a Stage 1 family to transfer into Stage 2 without one of the approved need statuses (CPS, At risk, employed, seeking employment, family experiencing homelessness, seeking permanent housing, vocational training, educational program, medical incapacitation).

If Counties are no longer required to determine child care eligibility based on an activity that is tied to a Welfare to Work plan how does a family seamlessly transfer into Stage 2?

• **PAGE 21 - 18084.1: Income Calculation**

~~(a) 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 pursuant to section 18078(q).~~

(b) When a family’s income is regular and/or steady, use the income calculation worksheet that specifies:

(1) The frequency of the pay periods;

(2) The gross amount of the payroll check stubs; and

(3) All other sources of countable income to determine the adjusted monthly income pursuant to section 18078

(a), as either:

(A) Weekly for 52 pay periods;

- (B) Every two weeks for 26 pay periods;
- (C) Twice monthly for 24 pay periods; or
- (D) Monthly for 12 pay periods.

~~(c)(b)~~ When a family's income fluctuates, as defined in section 18078(A), because of:

~~(1) Migrant, Agricultural, or seasonal work, as referenced in section 18078(j)(1), the adjusted monthly income shall be determined by averaging the total countable income from the preceding 12 months preceding the initial certification, an update of the application, or the recertification that establishes eligibility for services.~~

~~(2) Inconsistent, and/or unstable, and/or variable employment, or self-employment income, the adjusted monthly income shall be determined by averaging the total countable income from the 12 preceding months.~~

~~(3)(2) Intermittent income, as referenced in section 18078(j)(2), by averaging the total countable intermittent income from the preceding 12 months by dividing by 12 and adding this averaged amount to the calculated adjusted monthly income amount, as applicable. other countable income.~~

~~(3) Unpredictable income as referenced in section 18078(j)(3), by averaging the income from at least three consecutive months and no more than 12 months preceding the initial certification, an update of the application, or the recertification that establishes eligibility for services.~~

INPUT: There are areas lacking clarity and necessity below.

(a) Concern that removal of the language does not allow for the ability to collect income from other sources such as disability checks. Recommend adding language back.

(b): Suggest that verbiage be added to specifically clarify/address 1 month or 1 month from the preceding 2 months.

(c)(2) and (3): Needs further clarification re: definition. Does this mean ALL self-employment income or just inconsistent and/or unstable self-employment income is considered "Income Fluctuation"? **Suggest 1 month up to 12 months.** The reality of a family having 12 months is unrealistic for a variety of reasons: the simple fact they are 'unstable', they haven't been doing this type of work for 12 months, they haven't been at that job 12 months. This is punitive, unnecessary and is **NOT Strength Based**.

intermittent income take all and calculate an average; clarification regarding consecutive paystubs; what is the goal of the two months; what is the intent; burdensome; if you were working before but not currently. Also, language should be considered that states 4 consecutive weeks within the 2 months prior to the certification. That allows for a combination of stubs that are not specific to a calendar month but could be the last week of one month and the 3 weeks of the next to equal a full month

• **PAGE 23** - 18085.5: Documentation of Need

(b) Subsidized child care and development services shall only be available to the extent to which:

(1) The parent(s) meets a need criterion as specified in ~~subsections~~**subdivision** (a) that precludes the provision of care and supervision of the family's child(ren) for ~~some~~ any part of the day;

(2) There is no parent in the family available and capable of providing care for the family's child(ren) during the time care is requested; and

~~(d) At any time during the 12-month certification period, a parent may provide a written request to decrease her or his the certified child care schedule based on provided documentation of a new need criteria. Requests for decrease in hours shall be provided in writing. In such a case, the contractor shall inform the family of the right to request to maintain or return to their current prior service certified schedule.~~

INPUT: There is language in this section that lacks clarity and creates a more burdensome and lesser standard than

what currently exists in California statutes. Further, a parent should have the right to be able to request a decrease of the certified need regardless of documentation.

(b)(2): Suggest removing the word “capable”. This is a weighted judgment word and is not defined.

(d): Suggest that a parent shall provide a “verbal, written or electronic request”. Please reference prior input on above regarding pages 14 & 15 - **18082.3(e) and (f)**.

- **PAGE 24 - 18086: Documentation of Need: Employment**

(B) Telephone the employer to verify the days and hours of employment and maintain a record of the verified information;

INPUT: It is inconsistent, confusing and contradictory that a contractor can “Telephone” the employer to verify need but cannot telephone/phone verify with a parent that they want to voluntarily decrease their certified schedule. Unfair practice and **NOT Strength Based**. Further, to be consistent with language proposed previously, allow a variety of communication be available in addition to telephone inclusive of written and electronic.

- **PAGE 24 - 18086(b)(2): Documentation of Need; Employment.**

(b) If the parent has an employer, the parent shall obtain and provide the documentation of need based on employment that shall consist of one of the following:

(1) ~~The p~~ Pay stubs ~~provided to determine income eligibility~~ that indicate the days and hours of employment; or

(2) Pay stubs that indicate the total hours of employment per pay period, as long as the hours generally correlate with the parent’s requested ~~days and hours of need~~ number of hours needed each week.

INPUT: It is recommended to specify either a more explicit definition or to include “based on the definition provided by the contractor” in the language of this section to make explicit that it is the contractor’s prerogative to create the parameters for a general correlation.

(2) above, amend to reflect “...period, as long as the hours generally correlate with the parent’s requested ~~days and hours of need~~ number of hours needed each week.”

- **PAGES 30 & 31 - 18086.6(a): Documentation of Need: Educational Programs; Service Limitations.**

(a) If the basis of need as stated on the application for services is educational programs as defined in section 18078(f), child care and development services shall be limited in total to six years from the initiation of services based on enrollment in educational programs.

INPUT: Based on the real world lives of the parents and families served in addition to the fact that most students take more than five years to complete an education program, it is punitive to impose a fixed six year timeline on subsidized families. For consistency and to reflect support a strength based policy for parents, align enrollment in educational programs to that of Seeking Employment which has no time limit.

Further, both 18086.6 and 18087 were separated into 2 different needs and both have service limitations of 6 years. Because of this, the interpretations of these regulations are that families can have 2 separate 6 year time limits with different start and end dates. Is this the intent of the regulations? If not, clarification is needed.

- **PAGE 33 - 18087(a) Documentation of Need: Vocational Training**

(a) If the basis of need as stated on the application for services is vocational training ~~leading directly to a recognized trade, paraprofession, or profession~~, child care and development services shall be limited, ~~except as specified in~~

subdivision (l), to whichever expires first as defined in section 18078(v), child care and development services shall be limited in total, to whichever occurs first:

- (1) Six years from the initiation of services ~~pursuant to this section~~ based on need for vocational training; or
(2) Twenty-four semester units, or ~~its~~the equivalent, after the attainment of a Bachelor's Degree.

INPUT: It is concerning that vocational training, which leads to parent self-sufficiency has a limitation of 6 years when seeking employment has no limitation. Suggest removing line item. Language throughout needs to be consistent, clear and **Strength Based**.

Further, both 18086.6 and 18087 were separated into 2 different needs and both have service limitations of 6 years. Because of this, the interpretations of these regulations are that families can have 2 separate 6 year time limits with different start and end dates. Is this the intent of the regulations? If not, clarification is needed.

Finally, does the language proposed mean that all training even non-accredited will be accepted?

• **PAGES 39 – 40 - 18090. Documentation of Eligibility and Need: Homelessness.**

(e) The contractor shall permit the enrollment of children to begin immediately upon the parent signing the application for services when the basis for eligibility is family experiencing homelessness. The parent shall provide all required documentation, including immunization records, within 30 days from the date the application for services is signed.

INPUT: Clarity is needed that AP contactors in accordance with MB 18-04⁶ are not required to collect immunization records. Yet in Section 18081 above it contradicts that without citing reference.

• **PAGE49 – Enrollment into CalWORKs Stage 2 by Transfer from ~~Another~~ a Stage 1 CalWORKs Agency.**

(8) Rate of **payment reimbursement**; and

INSERT: (9) Collecting a family fee;

~~(9)~~ (10) The name, address, and telephone number of the child care provider and the type of eligible provider, pursuant to section 18227.

INPUT: If a former recipients, family may be paying a family fee in Stage 1. That information must be captured when transferred to Stage 2. Further, DSS ACL No. 19-99 directs counties to provide Stage 1 families with immediate and continuous child care for 12 months. According to the ACL, families are deemed eligible at the point they are eligible for CalWORKs (with a few exceptions). This means that the NEED (and verification of NEED) for child care services has been severed.

This new policy does not align with Stage 2 regulations specifically in the area of the seamless transfer process §18409 wherein the data elements include (5) The reason for needing child care services and (7) Employment or training information for parent(s) including name and address of employer(s) or training institutions(s) and days and hours of employment or training.

Finally, as proposed, this language in this section does not allow a Stage 1 family to transfer into Stage 2 without one of the approved need statuses (CPS, At risk, employed, seeking employment, family experiencing homelessness, seeking permanent housing, vocational training, educational program, and medical incapacitation).

⁶ <https://www.cde.ca.gov/sp/cd/ci/mb1804.asp>

If Counties are no longer required to determine child care eligibility based on an activity that is tied to a Welfare to Work plan how does a family seamlessly transfer into Stage 2?

- **PAGE 52 - 18409.5(a)(2) Stage 2 When Not Transferring from Another Agency**

(a) When a family who is not being transferred from a county welfare department's Stage 1 program or another contractor's Stage 2 program requests CalWORKs Stage 2 child care services, an application for services must be completed ~~by the family, and should~~**shall** containing the following information and supporting documentation:

- (1) The parent's(s) full name(s), address(es) and telephone number(s);
- (2) The names and birth dates of all children under the age of 18 in the family, regardless of whether they are

served in the CalWORKs program;

INPUT: This line item states the application shall include names and birth dates for children under 18. Suggest that this be changed to all children "included in the family size". Children over 18 still in high school can still be counted in the family size with documentation and children with documented severe handicaps and/or exceptional needs can be included much longer.

NOTE: Page 52 line 17 – DELETE. This specific section is for a new enrollment directly into CalWORKs Stage 2. The language proposed for deletion is for a transfer and not a new enrollment.

- **PAGE 52 - 18409.5(a)(8) Stage 2 When Not Transferring from Another Agency**

(8) Rate of ~~payment reimbursement~~;

INPUT: Delete. Not required when it is not a transfer.

- **PAGE 54 - 18410.1. Recertification of Eligibility for Stage 2.**

(b) (1) Notify the parent in writing in the final 30 days of the 12-month certification period, which starts with the day the agency's authorized representative signed the last application for services, of:

INPUT: There is no necessity being satisfied, as there are no longer signed applications for services. Current Practice: If transferred into Stage 2 from a Stage 1 program, there isn't a signed application the first 12 months from the transfer but there is the following years. A family is eligible for Stage 2 for two years after being discontinued from cash aid. They could be recertified in Stage 2 multiple times.

Suggest to clarify regulation language with the following:

(b) (1) Notify the parent in writing in the final 30 days of the 12-month certification period or effective date of Stage 2 transfer, which starts with the day the agency's authorized representative signed the last application for services, of:

- **PAGE 55 - 18410.1(e) Stage 2 Recertification**

(e)(d)-Except as otherwise provided by law or regulation, disenrollment cannot occur prior to the end of the 12-month period, even if disqualifying information is discovered during the preliminary collection of documentation for certification, with the following exceptions:

(1) When the recalculation of income based on the provided documentation, indicates that the family's adjusted monthly income, adjusted for family size, exceeds the income threshold set forth in Education Code section 8263.1 and the family does not meet the requirements for another eligibility basis;

(2) When the parent changes residence outside of California; or

(3) When there is substantiated evidence of fraud that invalidates the ~~prior initial determination of~~ certification or recertification.

INPUT: For consistency and clarity add “**(4) Abandonment of care and (5) Parent request and (6) Delinquent fees**”⁷. Eliminate in (3) “substantiated evidence of” as agencies do not have staff that can make a legal finding of substantiated.

- **PAGES 56 & 57 - 18410.2 Stage 2 Income Exceeds Threshold**

(a) When a family is transferred to Stage 2, either from Stage 1 or another Stage 2 agency and eligibility is based on income or when a family is certified or recertified for services in Stage 2 on the basis of income **eligibility**, the contractor shall, at the same time:

(1) Provide the parent with a copy of the most recent Schedule of Income Ceiling eligibility table, as published by the State Superintendent of Public Instruction;

(2) Notify the parent in writing of the **following**:

(A) The maximum adjusted monthly income, adjusted for family size, and taking into account fluctuations in income pursuant to section 18084.1(c), that the family could earn, ~~taking into account any income fluctuations,~~ before ~~being ineligible~~the family would be disqualified for services, based on ongoing requirements; and

(B)~~(3) Notify the parent of~~ The requirement to **notify the inform the Stage 2 contractor, within 30 calendar days, of any current and on-going income change that causes the family’s **adjusted monthly income** to exceed this maximum **amount income threshold**.**

(b) Upon notification by a parent that they may have exceeded the maximum income threshold, the contractor shall utilize the process set forth in section 18406 to calculate the family’s adjusted monthly income, adjusted for family size, to determine if the family **is remains** income eligible for continued services.

(1) If the contractor determines, based on the provided documentation, that the family is still income eligible for services, the contractor shall inform the family in writing.

(2) If the contractor concludes the family is no longer income eligible based on the documentation provided by the parent or the parent fails to provide the documentation as requested by the contractor within 15 calendar days from the day of the parent’s notification and the family does not establish another basis for eligibility based on documentation, the contractor shall issue a Notice of Action to disenroll the family pursuant to section 18419.

(3) If the contractor concludes the family remains eligible for services based on documentation supporting another basis for eligibility, the contractor shall issue a Notice of Action approving services on the new basis for eligibility pursuant to section 18419.

INPUT: Delete “ (1) Provide the parent with a copy of the most recent Schedule of Income Ceiling eligibility table, as published by the State Superintendent of Public Instruction;” as parents want to know the maximum income not the multiple pages of the actual Schedule. Further, (1) is a waste of resources and unnecessary if they receive (a)(2)(A).

For line (b)(1):Delete ,to determine if the family **is remains** income eligible for continued services-with “**services shall continue.**”

In line (b)(2) remove 15 calendar days and insert “**as requested by contractor**”.

Delete (2)(A) in its entirety as it has no reference and lacks necessity and clarification.

- **PAGE 58 - 18410.3 Stage 2 Voluntarily Request Changes - Decrease Certified Schedule**

⁷ Plan for Payment of Delinquent Fees; Consequences of Nonpayment of Delinquent Fees (EC 8269, 8273, 5 CCR 18115, 18116)

(e) When a family voluntarily requests a reduction to ~~its~~ **their certified schedule service level**, the parent shall:

(1) Submit a written request that includes:

(A) Days and hours per day requested; and

(B) Effective date of ~~the~~ proposed reduction of ~~service level~~ **certified schedule**; and

(2) Acknowledge in writing that ~~it~~ **they** understands that ~~it~~ **they** may retain ~~its~~ **their** current **certified schedule service level**.

(f) Upon receipt of the parent's written request in subsection ~~(de)~~, the contractor shall:

(1) Notify the family in writing of the parent's right to continue to bring ~~her or his~~ **the** child pursuant to the original certified **schedule service level**; and

(2) Use the documentation provided by the parent to support the requested changes, as applicable;

(3) Issue a Notice of Action pursuant to section 18419 ~~within 14 or 19 days prior to the effective date of action~~;
and

(4) Only use any information received to ~~make the requested change~~ **reduce their certified schedule. and not make** ~~No~~ other changes to the ~~service agreement~~ **certified schedule shall be made**.

INPUT: There is language in this section that lacks clarity and creates a more burdensome and lesser standard than what currently exists in California statutes.

(e)(1) Suggest that a parent shall provide a "verbal, written or electronic request". Please reference prior input on above regarding pages 14 & 15 - **18082.3(e) and (f)**.

(e)(2) Suggest that a parent shall provide a "verbal, written or electronic request". Please reference prior input on above regarding pages 14 & 15 - **18082.3(e) and (f)**.

(f)(1) Suggest removing entire line item. Unclear why we would have to reiterate again after the parent already acknowledges above (e)(2)

As previously noted, the written requirement for a parent to voluntarily reduce their certified schedule is archaic, punitive and fiscally irresponsible. This is a hardship for families and implies that the contractor is somehow taking away benefits. Families do NOT like this Regulation. They do NOT understand why they can't simply reduce their schedule without having to jump through several hoops that may (especially in rural communities) be very difficult to navigate.

• **PAGE 59 - 18415. Contractor Responsibilities.**

(b) The contractor shall provide an application to all families requesting CalWORKs Stage 2 child care services.

INPUT: This language is not current as applications are no longer needed for a Stage 1 to Stage 2 transfer. However, a family may apply for child care services directly into Stage 2 without transferring from Stage 1 or another Stage 2 agency, an application would be needed under those circumstances.

• **PAGE 63 - 18424(a)(1) Stage 3 Enrollment from Another Agency**

(a) A family is transferred into Stage 3 from a county welfare department's Stage 1 program or another contractor's Stage 2 or Stage 3 program when the following information is obtained by the receiving contractor **from the transferring agency**:

(1) The parent's(s) full name(s), address(es), and telephone number(s);

- (2) The names and birth dates of all children under the age of 18 living with the family, regardless of whether they are served in the CalWORKs program;
- (3) The number of hours of child care needed each day for each child;
- (4) The names of other family members in the household who are related by blood, marriage, or adoption;
- (5) The reason for needing child care services;
- (6) Family size and adjusted monthly income, if the transferring contractor was assessing and collecting a family fee;
- (7) Employment or training information for parent(s) including name and address of employer(s) or training institutions(s) and days and hours of employment or training;
- (8) Rate of ~~payment reimbursement; and~~
- (9) The name, address, and telephone number of the child care provider and the type of eligible provider, pursuant to section 18227-; and
- (10) The date of the last recertification, if applicable.

INPUT: This line item states the application shall include names and birth dates for children under 18. Suggest that this be changed to all children “included in the family size”. Children over 18 still in high school can still be counted in the family size with documentation and children with documented severe handicaps and/or exceptional needs can be included much longer.

- **PAGE 63 - 18424(a)(8) Stage 3 Enrollment from Another Agency**

(8) Rate of payment reimbursement;

INPUT: Delete. Not required for a transfer.

Current practice: item 8 is required for a transfer, it’s not required when it’s not a transfer. Stage 3 eligibility is based on transfers from Stage 2.

- **PAGE 68 - 18425.1(e) Stage 3 Recertification**

~~(e)(d)~~ Except as otherwise provided by law or regulation, disenrollment cannot occur prior to the end of the 12-month period, even if disqualifying information is discovered during the preliminary collection of documentation for certification, with the following exceptions:

- (1) When the calculation of income based on the provided documentation, indicates that the family’s adjusted monthly income, adjusted for family size, exceeds the income threshold set forth in Education Code section 8263.1 and the family does not meet the requirements for another eligibility basis;
- (2) When the parent changes residence outside of the State; or
- (3) When there is substantiated evidence of fraud that invalidates the ~~prior initial determination of~~ certification or recertification.

INPUT: For consistency and clarity add “**(4) Abandonment of care and (5) Parent request and (6) Delinquent fees⁸**”.

- **PAGES 68 – 69 - 18425.2 Stage 3 Income Exceeds Threshold**

(a) When a family is transferred to Stage 3, either from a Stage 1 or Stage 2 agency and eligibility in the transferring agency is based on income or when a family is certified or recertified for services in

⁸ Plan for Payment of Delinquent Fees; Consequences of Nonpayment of Delinquent Fees (EC 8269, 8273, 5 CCR 18115, 18116)

Stage 3 on the basis of income eligibility, the contractor shall, at the same time:

(1) Provide the parent with a copy of the most recent Schedule of Income Ceiling eligibility table, as published by the State Superintendent of Public Instruction;

(2) Notify the parent in writing of the following:

(A) The maximum adjusted monthly income, adjusted for family size, and taking into account fluctuations in income pursuant to section 18084.1(c) that the family could earn, taking into account any income fluctuations, before the family would be disqualified being ineligible for services, based on ongoing eligibility requirements; and

(B)(3) Notify the parent of the requirement to notify the inform the Stage 2 contractor, within 30 calendar days, of any current and on-going income change that causes the family's adjusted monthly income to exceed this maximum amount income threshold.

(b) Upon notification by a parent that they may have exceeded the maximum income threshold, the contractor shall utilize the process set forth in section 18421 18084.1 to calculate the family's adjusted monthly income, adjusted for family size, to determine if the family is remains income eligible for continued services.

(1) If the contractor determines, based on the provided documentation, that the family is still income eligible for services, the contractor shall inform the family in writing.

(2) If the contractor concludes the family is no longer income eligible based on the documentation provided by the parent or the parent fails to provide the documentation as requested by the contractor within 15 calendar days from the day of the parent's notification and the family does not establish another basis for eligibility based on documentation, the contractor shall issue a Notice of Action to disenroll the family pursuant to section 18434.

(3) If the contractor concludes the family remains eligible for services based on documentation supporting another basis for eligibility, the contractor shall issue a Notice of Action approving services on the new basis for eligibility pursuant to section 18434.

INPUT: Delete (a)(1) in its entirety (a) ~~(1) Provide the parent with a copy of the most recent Schedule of Income Ceiling~~

~~eligibility table, as published by the State Superintendent of Public Instruction;~~ Parents want to know the maximum income not the multiple pages of the actual Schedule. Waste of resources and unnecessary if they receive (a)(2)(A).

(b)(1): Delete ~~the contractor shall inform the family in writing~~ and replace with **"services shall continue"**.

(b)(2): Delete ~~within 15 calendar days from the day of the parent's notification and the family does not establish another basis for eligibility based on documentation, the contractor shall issue a Notice of Action to disenroll the family pursuant to section 18434.~~ The line would then read If the contractor concludes the family is no longer

income eligible based on the documentation provided by the parent or the parent fails to provide the documentation as requested by the contractor.

• **PAGE 70-71 - 18425.3 Stage 3 Voluntarily Request Changes - Decrease Certified Schedule**

(e) When a family voluntarily requests a reduction to its their certified schedule service level, the parent shall:

(1) Submit a written request that includes:

(A) Days and hours per day requested; and

(B) Effective date of the proposed reduction of service level certified schedule; and

(2) Acknowledge in writing that he or she they understands that he or she they may retain her or his their current service level certified schedule.

(f) Upon receipt of the parent's written request in subsection (e), the contractor shall:

(1) Notify the family in writing of the parent's right to continue to bring ~~her or his~~ the child pursuant to the original certified **schedule-service level**;

(2) Use the documentation provided by the parent to support the requested changes, as applicable;

INPUT: *The written requirement for a parent to voluntarily reduce their certified schedule is archaic, punitive and fiscally irresponsible. This is a hardship for families and implies that the contractor is somehow taking away benefits. Families do NOT like this Regulation. They do NOT understand why they can't simply reduce their schedule without having to jump through several hoops that may (especially in rural communities) be very difficult to navigate.*

(e)(1) Suggest that a parent shall provide a "verbal, written or electronic request". Please reference prior input on above regarding pages 14 & 15 - **18082.3(e) and (f)**.

(e)(2) Suggest that the request acknowledge "verbally, in writing or electronically". Please reference prior input on above regarding pages 14 & 15 - **18082.3(e) and (f)**.

(f)(1) Suggest removing entire line item. Unclear why we would have to reiterate again after the parent already acknowledge above (e)(2)

• **PAGE 72 - 18430. Contractor Responsibilities.**

(c) The contractor shall not require the family or the provider to furnish any need and eligibility documentation previously provided to a county welfare department or an alternative payment program ~~within the one year prior to application, unless the documentation is absent from the existing file and the documentation affects the eligibility for child care services.~~

INPUT: For clarity the language assumes that the provider the parent is using is registered with the receiving contractor. Each contractor has enrollment forms and provider orientations including obtaining acknowledgement from the provider that they agree to the contractor's policies, especially payment policies. In addition if the provider is exempt, the contractor would need to obtain the TrustLine documentation, if applicable. Also, the contractor would not know what provider documentation was previously provided to a county welfare department or another alternative payment program.

For clarity it is recommended to include language that does not preclude the contractor from requiring the provider to complete the registration process with the receiving contractor.

Thank you for your attention to the recommendations raised in this letter.

Warm regards.



Denyne Micheletti Colburn, CEO

CAPPA