SENATE BILL 241

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

George K. Muñoz and Doreen Y. Gallegos and Linda M. Trujillo

and Michael Padilla and Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO CHILDREN; ENACTING THE CHILD CARE ASSISTANCE
PROGRAM ACT; ESTABLISHING THE CHILD CARE ASSISTANCE PROGRAM;
PROVIDING FOR PAYMENTS TO CHILD CARE FACILITIES THAT
PARTICIPATE IN THE CHILD CARE ASSISTANCE PROGRAM; PROVIDING
ELIGIBILITY AND REGULATORY REQUIREMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Children's Code is
enacted to read:

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
"Child Care Assistance Program Act"."

SECTION 2. A new section of the Children's Code is
enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Child Care
Assistance Program Act:

A.   "at-risk child" means a child who may be vulnerable to or experiencing negative outcomes due to factors such as poverty, domestic violence, substance abuse, mental health issues, family involvement in the justice system, housing instability or homelessness; who has or is at risk of having a developmental delay or a disability; or for whom a child care facility has made a report to a central intake system of the children, youth and families department;

B.   "child care assistance" means funding administered by the department to a child care facility to provide child care for eligible children through the child care assistance program;

C.   "child care facility" means a public or private entity, facility or premises that is licensed or registered and regulated by the department at which children receive child care services, including care, education and supervision, for less than twenty-four hours per day;

D.   "consensus revenue estimating group" means the professional economists or revenue analysts from the department of finance and administration, the taxation and revenue department, the department of transportation and the legislative finance committee;

E.   "department" means the early childhood education and care department;

F.   "developmental delay" means a discrepancy

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between chronological age, after correction for prematurity, and developmental age in one or more of the following areas of development: cognition; communication; physical and motor development, including vision and hearing; social and emotional development; and adaptive development;

G. "disability" means a severe chronic disability of a person that is attributable to a mental or physical impairment;

H. "early intervention" means services provided through the family, infant, toddler program of the department that are designed to meet the developmental needs of children from birth to age three who have or who are at risk of having a developmental delay or disability;

I. "early intervention provider" means a person who provides early intervention;

J. "early pre-kindergarten program" means an early pre-kindergarten program as defined in the Pre-Kindergarten Act;

K. "earned income" means income received as gross wages from employment or as profit from self-employment;

L. "incapacitation" means a person is unable to meet an eligibility requirement due to an inability to care for a child because of a disability, health-related illness, rehabilitation treatment or other reason as determined by the department;

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1   M. "legal guardian" includes both a temporary and
2   permanent legal guardian or custodian;

3   N. "pre-kindergarten program" means a pre-
4   kindergarten program as defined in the Pre-Kindergarten Act;

5   O. "resident" means a person who is domiciled in
6   New Mexico, including a person who is homeless or who is
7   temporarily residing in a domestic violence or homeless
8   shelter; provided that for the purposes of the Child Care
9   Assistance Program Act, a person may have only one domicile;

10   P. "tiered quality rating system" means the system
11   developed by the department to rate the level of quality of a
12   licensed child care facility; and

13   Q. "unearned income" means income in the form of
14   benefits, such as benefits received pursuant to state and
15   federal programs, child support, pensions, gifts, loans, grants
16   and other income that is not income received as gross wages
17   from employment or as profit from self-employment."

18   SECTION 3. A new section of the Children's Code is
19   enacted to read:

20   "[NEW MATERIAL] CHILD CARE ASSISTANCE PROGRAM--
21   ELIGIBILITY REQUIREMENTS.--

22   A. The "child care assistance program" is created
23   in the department to provide child care assistance for eligible
24   children, subject to appropriation. The department shall
25   promulgate rules necessary to carry out the provisions of the

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1   program.

2   　　　　B.　To participate in the child care assistance

3   program, an application shall be submitted to the department in

4   the manner and form prescribed by the department.　Subject to

5   the provisions of Subsection C of this section, a person is

6   eligible for child care assistance if an application is

7   submitted on behalf of a resident child receiving child care

8   assistance who is under the age of thirteen years at the time

9   of application, or under the age of nineteen years if the child

10   is physically or mentally incapable of caring for the child's

11   self or is under court supervision.　The department shall

12   redetermine eligibility for child care assistance at a

13   frequency level aligned with federal regulation.

14   　　　　C.　To be eligible to participate in the child care

15   assistance program, each parent or legal guardian of a child

16   receiving child care assistance who lives in the household with

17   the child shall be:

18   　　　　　　　　(1)　employed;

19   　　　　　　　　(2)　a full-time student and enrolled in at

20   least twelve credit hours at an accredited educational

21   institution;

22   　　　　　　　　(3)　a part-time student and enrolled in at

23   least six credit hours at an accredited educational

24   institution;

25   　　　　　　　　(4)　enrolled in a certified job training

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1 program or apprenticeship;

2 (5) receiving aid from the federal temporary

3 assistance for needy families program;

4 (6) experiencing homelessness;

5 (7) under the age of twenty and attending

6 primary or secondary school;

7 (8) participating in services pursuant to the

8 federal Comprehensive Addiction and Recovery Act of 2016

9 provided by the children, youth and families department; or

10 (9) engaged in an eligible activity or

11 exempted from the eligible activity for a reason, including

12 incapacitation, as determined by department rule and in

13 accordance with federal regulations.

14 D. If a parent or legal guardian who applies for

15 child care assistance has an annual household income greater

16 than six hundred percent of the federal poverty level, the

17 eligibility for child care assistance shall be limited to the

18 hours of care supported by the parent's or legal guardian's

19 qualifying activity schedule.

20 E. Eligibility may be granted for up to ninety days

21 for applicants seeking employment.

22 F. An application to the department shall include

23 documentation evidencing that the applicant meets the

24 requirements to be eligible to participate in the child care

25 assistance program and shall include documentation of earned

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1   and unearned income. To determine residency in New Mexico, the

2   applicant shall provide a current New Mexico driver's license

3   or other documentation proving residence in New Mexico as

4   determined by department rule.

5   G.   Unless determined necessary by the department, a

6   child shall not be eligible for child care assistance for the

7   hours of care in which the child is enrolled in a head start

8   program or an early head start program or for the hours a child

9   is eligible for an early pre-kindergarten or a pre-kindergarten

10   program.

11   H.   The department may make a presumption of

12   eligibility for the child care assistance program based on

13   proof of the child's residency and proof of parentage or

14   guardianship before the documentation required pursuant to

15   Subsection C of this section is received. Presumption of

16   eligibility shall not exceed the allowable duration permitted

17   by the federal government upon initial application."

18   SECTION 4. A new section of the Children's Code is

19   enacted to read:

20   "[NEW MATERIAL] COPAYMENT DETERMINATION.--

21   A.   A parent or legal guardian may be required to

22   pay a child care facility a copayment for child care services;

23   provided, however, that the department shall provide a parent

24   or legal guardian with ninety days' notice prior to the

25   implementation of a copayment.

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1   B.   Beginning after one of the conditions pursuant

2   to Subsection C of this section is met, and continuing through

3   the remainder of the applicable fiscal year, the department

4   shall implement one or more of the following:

5   (1)   a sliding scale payment schedule

6   applicable to monthly copayments as provided in Subsection D of

7   this section;

8   (2)   a waitlist as provided in Subsection E of

9   this section if demand for child care assistance exceeds the

10   availability of funds within the fiscal year; or

11   (3)   a combination of both Paragraphs (1) and

12   (2) of this subsection.

13   C.   The department shall implement one or more of

14   Paragraphs (1) through (3) of Subsection B of this section if,

15   in a given year, any of the following conditions is met:

16   (1)   the number of children receiving child

17   care assistance services exceeds that year's projected

18   enrollment by three percent as determined by the department on

19   August 1 of each calendar year;

20   (2)   the state recurring general fund revenue

21   growth percentage is projected to be lower than the percentage

22   change in the annual consumer price index for all urban

23   consumers for the prior calendar year as determined by the

24   consensus revenue estimating group;

25   (3)   the twelve-month average percentage change

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in the annual consumer price index for all urban consumers

exceeds three percent;

(4) the average price for west Texas

intermediate crude oil during the applicable fiscal year is

less than fifty dollars ($50.00) per barrel as determined by

the consensus revenue estimating group; or

(5) the department identifies a different or

additional condition.

D. For a sliding scale payment schedule applicable

to monthly copayments pursuant to Paragraph (1) of Subsection B

of this section, the payment schedule shall be implemented to

ensure that the amount appropriated for the child care

assistance program is sufficient to meet the costs of the

program and that a monthly copayment shall not exceed one-

twelfth of the percentages provided in Paragraphs (1) through

(3) of this subsection as applied to an applicant's annual

household income. The payment schedule shall be as follows:

(1) copayments for an applicant with an annual

household income of six hundred percent or less of the federal

poverty level shall be waived;

(2) copayments shall be three percent or less

of the annual household income for a household with income

greater than six hundred percent but not exceeding nine hundred

percent of the federal poverty level for all children in care;

provided that the amount shall not exceed twenty-five percent

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of the average rate paid for the applicable age group to the child care facility; and

(3)　copayments shall be seven percent or less of the annual household income for a household with income greater than nine hundred percent of the federal poverty level for all children in care; provided that the amount shall not exceed fifty percent of the average rate paid for the applicable age group to the child care facility.

E.　For a waitlist maintained pursuant to Paragraph (2) of Subsection B of this section, to avoid a possible funding deficiency, the department shall prioritize all available child care assistance for children with developmental delays or disabilities, at-risk children and children from birth to age three in households with annual household incomes of less than four hundred percent of the federal poverty level.

F.　The department shall expend federal child care assistance funds, including required state match and maintenance of efforts amounts, for federally eligible children prior to expending state funds for child care assistance.　The department shall reasonably ensure that eligible federal and state child care tax benefits are maximized.

G.　The department shall provide child care assistance to children aged six through twelve years who are eligible for federal child care assistance, and the department shall not exceed thirteen thousand child care assistance slots

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1   for children aged six through twelve years who are not

2   federally eligible, except as provided for a child through age

3   eighteen years if that child is under court supervision or is

4   physically or mentally incapable of self-care. The department

5   shall maintain a waitlist and prioritize applicants based on

6   whether an application is for an at-risk child and on families'

7   annual incomes from lowest to highest percentage of the federal

8   poverty level."

9   SECTION 5. A new section of the Children's Code is

10   enacted to read:

11   "[NEW MATERIAL] PAYMENT RATES FOR CHILD CARE ASSISTANCE

12   SERVICES.--

13   A. Payment rates for the child care assistance

14   program, including copayments, shall be subject to the

15   availability of funds and shall be set by rule of the

16   department and updated as required by federal law. Payment

17   rates shall:

18   (1) be based on a cost estimation model in

19   accordance with the requirements of the federal child care and

20   development fund program authorized by the federal Child Care

21   and Development Block Grant Act of 1990, as amended;

22   (2) correspond to differences in quality based

23   on the tiered quality rating system of the department;

24   (3) be sufficient to meet the requirements of

25   each tier and ensure adequate wages for child care facility

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staff;

(4)   include thresholds appropriate for each facility type and age groups of children and full-time, part-time or wrap-around care;

(5)   include a differential rate for care that is provided during nontraditional hours of operation; and

(6)   incorporate feedback and input from early childhood education and development experts, a diverse group of child care facilities of a variety of facility types, families and organizations representing child care directors, teachers and other staff.

B.   The department may create an enhanced monthly rate schedule with a monthly payment rate not to exceed an average of ten percent above the rate provided in Subsection A of this section for a child care facility.

C.   The portion of the rates used for salaries and benefits and toward the wage scale and career ladder pursuant to this section shall be determined by rule of the department."

SECTION 6.   A new section of the Children's Code is enacted to read:

"[NEW MATERIAL] REQUIREMENTS--CHILD CARE FACILITIES--EARLY INTERVENTION PROVIDERS.--

A.   A child care facility that participates in the child care assistance program shall:

(1)   not accept or receive child care

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assistance for hours that a child is enrolled in a head start

program or an early head start program or is eligible for an

early pre-kindergarten program or a pre-kindergarten program,

except when determined necessary by the department;

(2) not accept or require payment or donations

in any form from an eligible child's family who is

participating in the child care assistance program for an

eligible child to be admitted or enrolled beyond the rate paid

by the department for the hours paid for through the child care

assistance program;

(3) refer an at-risk child to appropriate

programs of the department for services;

(4) meet and maintain required training as set

by rule of the department to identify and refer at-risk

children to a home visiting and the family, infant, toddler

programs of the department;

(5) meet and maintain required professional

development and certification pathways, as set by rule of the

department;

(6) not unreasonably exclude early

intervention providers from accessing a child care setting to

provide early intervention services. If intervention providers

are excluded for any reason, a facility shall notify the

department within forty-eight hours;

(7) report to the department program

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1   participation, professional qualifications of staff members,

2   salaries and benefits for each employee and the employee

3   benefit structure; and

4   (8)   comply with department requirements

5   promulgated by rule.

6   B.   If a child is referred for early intervention,

7   an early intervention provider shall not intervene without

8   express authorization by the parent, legal guardian or

9   custodian of the child.

10   C.   The department shall create a reporting

11   mechanism for early intervention providers to report suspected

12   child abuse or neglect occurring in a child care facility."

13   SECTION 7.   A new section of the Children's Code is

14   enacted to read:

15   "[NEW MATERIAL] DEPARTMENT DUTIES--SHARING OF

16   INFORMATION.--

17   A.   The department shall develop the child care

18   assistance program to enhance child care quality and improve

19   the development of participating children.   Through the

20   administration of the child care assistance program, the

21   department shall promote parental choice, allowing parents to

22   choose the care that best suits the child's family through a

23   mixed delivery system that includes public, private, nonprofit,

24   for-profit and faith-based child care facilities; provided that

25   systems prohibited by the constitution of New Mexico shall not

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be paid from the land grant permanent fund. In carrying out its duties, the department shall:

(1)   implement internal controls that ensure integrity of and accountability for the child care assistance program while maintaining continuity of the program; and

(2)   report any suspected intentional misuse of funds to local law enforcement and the local district attorney or the attorney general for prosecution; provided that upon a report being made to law enforcement pursuant to this paragraph, the department shall report the suspected intentional misuse of funds by the child care facility to the state auditor, who shall investigate the child care facility.

B.   The department shall perform at least two unannounced visits per year to each child care facility that shall include a compliance review of the Child Care Assistance Program Act requirements and compliance with the rules set by the department.

C.   By September 1, 2026 and each September 1 thereafter, the department shall provide to the legislative health and human services committee and the legislative finance committee a report on implementation of the Child Care Assistance Program Act, including costs, a review of the cost estimation model and payment rates set pursuant to Section 5 of the Child Care Assistance Program Act, program participation, children and families served by that act, the distribution of

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child care assistance based on income, race or ethnicity by the

tiered quality rating system throughout the state and the

information reported pursuant to Subsection A of Section 6 of

that act.

D.   All agencies that are part of the children's

cabinet pursuant to the Children's Cabinet Act shall share data

and other information necessary with the department in order

for the department to carry out the provisions of the Child

Care Assistance Program Act."

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