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FISCAL IMPACT REPORT

SPONSOR Dow/Armstrong/
Ferrary/Tallman/
Morales ORIGINAL DATE 1/28/18
 LAST UPDATED 2/08/18 HB 193/aHF1#1
 SHORT TITLE Early Childhood Care Accountability Act SB _____
 ANALYST Klundt/Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications			Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth and Families Department (CYFD)

SUMMARY

Synopsis of HF1#1

The House Floor Amendment #1 clarifies that two of the standards that licensed early childhood care programs must comply with—(5) collecting data on program activities and outcomes for reporting and (6) measuring the promotion of positive development and appropriate early childhood educational practices--shall be in accordance with the tier levels that the department has established in rule.

Synopsis of Original Bill

This bill enacts a new section of the Children’s Code, the Early Childhood Care Accountability Act (ECCAA), establishing “specific standards for licensure and registration” of licensed early childhood care programs.

The bill defines the specific areas of child care programs licensed by CYFD which are the focus of the ECCAA and states that it is not applicable to licensed child care programs, licensed exempt child care programs or licensure or regulation of child care assistance. These definitions and/or distinctions are important in order to separate from the overall child care system, the target population of the bill, being those children under the age of 5 (or pre-kindergarten)

receiving child care in licensed facilities with the focus of preparing those children for school. The distinctions, as contained in the bill, are as follows:

Licensed early childhood care programs, the only programs targeted by this bill, are those publicly or privately funded programs that provide child care for children under age 5 licensed by and in accordance with department standards.

Programs not targeted by this bill are:

1. Licensed child care programs are those same programs that provide care for school-aged children.
2. Licensed exempt child care programs are those programs that are exempt from the child care licensing requirements of the Public Health Act and commonly referred to by CYFD as registered child care homes.
3. Child care assistance (or as referred to by CYFD as child care subsidies) is a needs and income based program paid by the state for parents of school-aged children for child care assistance.
4. Early childhood care assistance is a needs and income based program paid by the state for parents of children under the age of 5 (pre-kindergarten children) for child care assistance.

The “specific standards for licensure and registration” implemented in this bill applicable to early childhood care programs require a voluntary rating scale or levels of care that are based on level of service quality (currently CYFD “Star” rating); that health, safety, social-emotional support, school readiness and staff qualifications are consistent with their tier or service quality as established by the state; and higher rates to be paid by the state for higher tiered rated (better quality) licensed early childhood care program providers.

The bill defines the standards or requirements that CYFD would implement for licensed early childhood care programs as follows:

- a specific purpose and outcome of services for the program;
- a definition of high-quality service delivery and continuous quality improvement;
- a common framework for early childhood care service delivery and accountability across all early childhood care programs;
- designed to promote child well-being, early education, social-emotional support and an emphasis on school readiness;
- collection, aggregation and analysis of common data;
- programs be grounded in best practices geared toward optimal health and developmental outcomes; and
- established foundational and continuing educational requirements for staff.

The bill specifies eleven (11) standards that licensed early childhood care programs must comply with as follows:

- ensure the health and safety of children in care (currently required under NMAC 8.16.2);
- comply with background check requirements for all staff, educators and volunteers in licensed early childhood care programs (currently required under NMAC 8.8.3 and 8.16.2);

- provide positive discipline and guidance (currently required under NMAC 8.16.2);
- continually evaluate program performance;
- collect data on program activities and outcomes;
- be culturally and linguistically appropriate;
- measure the promotion of positive development and appropriate early childhood educational practices;
- ensure that enrolled children are up to date with immunizations in accordance with state law (currently required under NMAC 8.16.2);
- train staff on reporting any suspected child abuse and neglect to CYFD PSD and local law authorities (already required under NMAC 8.16.2);
- Ensure that the program has established and shared with parents a curriculum statement that supports school readiness; and
- Follow a curriculum that is aligned with child development functional areas, including NM early learning guidelines, in accordance with their tier levels that have been established by CYFD.

Lastly, the bill requires that, beginning December 31, 2019 and thereafter, CYFD report annual outcomes to the legislature and the governor detailing twelve (12) specific areas to include data regarding licensed early childhood care programs standards as follows:

- Substantiated incidents and complaints for each program rating level;
- Income levels of eligible families receiving early childhood care assistance, the reasons that they have applied for said assistance; and the percentage of children receiving early childhood care assistance by quality level and provider type;
- Average annual enrollment in early childhood care assistance;
- Percentage of children receiving early childhood care assistance who have substantiated child abuse cases while participating in early childhood care assistance;
- Evidence, by rating level, of increase in school readiness, child development and literacy among children receiving early childhood care assistance;
- Number, type and capacity by rating level of programs statewide;
- Number of children enrolled in programs receiving health and developmental screenings/assessments per department rules; and
- Percentage of children enrolled in programs who have received health or developmental screenings/assessments and are referred to services as required by department rules.

FISCAL IMPLICATIONS

CYFD reported the agency already captures most of the information required in this bill, however, the agency also believes there will be additional costs required for ensuring databases capture correct, current data as required. CYFD also noted the agency will additionally need to contract with an entity to collect and analyze and produce the information for the accountability report, but stated the cost associated with this bill could be absorbed by existing resources. No estimate of this cost was provided.

Currently, CYFD contracts with the University of New Mexico Center for Education Policy Research (CEPR), to publish an annual child care data report. The contract for \$100 thousand may need increased funding to provide additional reporting elements required by this bill.

SIGNIFICANT ISSUES

The childcare assistance program is the largest early childhood program administered by the state, serving over 20 thousand children monthly at an annual cost for around \$130 million. The program subsidizes the cost of child care for families with incomes at or below 200 percent of the federal poverty level (FPL), about \$49.2 thousand annually for a family of four. Additionally, to be eligible for assistance, a child's caregivers must be employed, enrolled in school or job training, or both. As of November 2013, all participating families at 150 percent of the FPL receive automatic assistance. In FY16, 47.1 percent of the families served by the childcare assistance program were at 100 percent of FPL or below. In addition, 87 percent of eligible families qualified for childcare subsidy due to employment.

In FY16, there were 3,219 CYFD licensed or registered child care programs in New Mexico eligible to serve low-income children who receive assistance. These licensed programs range from home-based to center-based. The majority 2,244 of the 3,219, of these programs are registered homes and therefore meet only minimal health and safety standards. Of licensed centers, only 245 providers statewide are considered to be high-quality, or 4 and 5 STAR.

In 2014, the federal Child Care and Development Block Grant (CCDBG) Act was reauthorized. The reauthorization made significant changes by defining health and safety requirements for childcare providers and a new 12-month eligibility requirement versus the previous six months. Extending the recertification process increased enrollment in childcare assistance significantly in FY17, over 4 percent, and enrollment is projected to grow an additional 15 percent through FY20. However, individual participation goes down by 20 percent after the first two months of enrollment, and may be unaffected by the new eligibility requirement. In addition, provider rates have grown from an average monthly rate of \$326 in 2013 to \$521 in FY17. As more providers are providing the highest level of quality care, the projected average monthly rate is also expected to increase to nearly \$530 in FY19 and FY20. Increasing enrollment coupled with higher provider rates will considerably raise the need for additional child care assistance funding in FY19 and FY20.

CYFD reported the following:

“Even as early as birth, children gain from experiences that help them be ready for school. The child care program in New Mexico is part of the New Mexico Early Learning continuum designed to support school readiness experiences for young children. From the foundational licensing requirements for all child care programs serving children birth to five (early childhood) and over five (school age), to the New Mexico Tiered Quality Rating and Improvement System, New Mexico has been able to determine child wellbeing and school readiness components that meet the programs where they are while assisting them in the process of improving their quality and implementing practices that support children from diverse communities throughout New Mexico.

CYFD's responsibility for early childhood care is three-fold:

Licensing and Regulation: CYFD is the agency currently charged with licensing and regulating child care facilities pursuant to Public Health Act, Section 24-1-1 to 24-1-22 NMSA 1978 as amended. Child care facilities come within the statutory definition of "health facilities" set out in Section 24-1-2 (D) NMSA 1978 and are required to be licensed by the licensing authority. CYFD has implemented certain standards and

procedures which are intended to establish minimum requirements for providing non-residential care to children in order to protect the health, safety, and development of the children. Furthermore, CYFD monitors facility compliance with regulations through surveys to identify any areas that could be dangerous or harmful to the children or staff members. Ultimately, the concern is that these facilities are providing a humane, safe, and developmentally appropriate environment. The ages of children at each licensed child care facility varies, depending on how each facility is equipped. Some facilities can care for children from infancy up though school aged. Regulations provided in NMAC section 8.8.16 prescribe the requirements for the facilities depending on their capacity and population of children that they serve. CYFD has already in place, under licensing and regulations, a child care system, based on tier levels, with emphasis on providing a framework to enhance the level and quality of care, including preparing young children for school. The licensed child care facilities are able to choose the level of child care that they are able to provide according to CYFD's tier levels. The higher quality of care or tier level corresponds to a higher level of financial reimbursement

The New Mexico Child Care regulations can be organized into three main components that promote children's health and safety, support for their social-emotional needs and school readiness.

1. Ensure health and safety of children while in care facilities, including compliance with facility safety and health indicators, training for individuals working with young children, requirements related to immunizations, reporting of child abuse and neglect, background checks and practices that promote health, safety and wellbeing of young children in care.
2. Support for the social-emotional needs of young children, including implementation of policies, procedures and practices for positive guidance with clear and appropriate expectations, promoting fairness, equity, and continuous improvement, preventing the expulsion of children from child care programs. Communication with parents regarding these policies.
3. Although components 1 and 2 are foundational pieces for school readiness, for children zero to five, New Mexico Child Care regulations require programs to establish and share with parents, a curriculum statement that supports school readiness, including:
 - a. an environment that provides children with the opportunity to gain skills supported by a variety of learning experiences.
 - b. a daily schedule that is consistent, balanced, providing predictable patterns of routine, trust and age appropriate experiences, including indoor and outdoor activities
 - c. materials and equipment that are safe, developmentally appropriate, and encourage the child's educational progress, creativity, social interaction, with a balance of individual and group activity
 - d. educators that are engaging, available and responsive to children while present in child care settings.
 - e. child care facilities that comply with the Americans with Disabilities Act (ADA) related to accommodations, enrollment and support for children with disabilities, developmental delays or established health conditions
 - f. staff qualifications and training required for their STAR level.

In addition, CYFD has establish FOCUS the New Mexico Tiered Quality Rating and Improvement System. A voluntary program that ensures higher reimbursement rate to

higher STAR level for eligible child care providers participating in the New Mexico Child Care Assistance program. FOCUS is organized in four functional areas: full participation of each and every child involved in the program, promotion of health practices, professional development and implementation of practices that lead to school success. The verification process is based on a consistent system that includes observations, interviews and review of records according to the STAR level and implements a continuous quality improvement process as a core component of the system. FOCUS also includes processes to incorporate approval of accrediting entities as recipients of the STAR 5 reimbursement rate.

This bill highlights some of the rich and complex elements that comprise the New Mexico child care program, specifically related to early childhood services by listing foundational and tiered components that represent the increased level of quality established by the department for programs serving children zero to five years of age.

The required outcomes report ensures accountability in the implementation of a quality system and will be used as a tool to inform the public of the services and supports and the impact of the child care program in the state, while assisting the state to ensure a data-informed quality improvement process.

Child Care Assistance (Subsidies): CYFD has a separate program that offers parents, based on income and need, assistance in paying for child care. Monies for this program is derived from both federal and state funding. Eligible families are provided with a list of providers who are willing to accept CYFD subsidies payments for child care and they can select a provider of their choosing. Parents, again based on need, are responsible for a copay or remainder that the child care subsidy does not cover. CYFD is able to collect data and track eligible families so long as CYFD continues to pay child care subsidies.

The proposed legislation commingles licensing and subsidies. While CYFD licenses and registers child care providers, CYFD only has access to data in which we pay subsidies for. To combine and gather actual statistics for the *entire* population served in early childcare programs will place a significant burden on the licensee or provider, and it is unclear that the bill grants CYFD the power to mandate such data collection.

Child and Adult Care Food Program: CYFD has an additional program with participating institutions including sponsoring organizations, independent centers and family child care providers which are reimbursed for costs of meal and snack services during care. Regulations covering administration and participation in this program are found in NMAC Section 8.2.2.

All three programs are administered through the Early Childhood Services Division of CYFD, functioning independently but mutually supplemental to each other.

CYFD will have to do more programing to achieve accountability across all child care providers. However, if the program is voluntary, then accountability across the board cannot be achieved. Increased regulations could potentially cause some providers to minimize their tier levels to get from under increased regulations and requirements.

This legislation would potentially have a chilling impact on the current child care system in that as a whole, licensed facilities are not able to meet the accountability standards and may require more growth with the incentives of more money for better programs, then

the majority of providers will rise to that level and eventually accountability will be across the board.”

TECHNICAL ISSUES

CYFD reported the following technical issues:

“Page 4, lines 2-3; CYFD does not have authority to dictate to providers the duration and frequency of services to provide.

Page 5, lines 18-21; Faith based providers may be opposed to requirements.”

KK/al