

AMENDED IN ASSEMBLY APRIL 12, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2133**

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**Introduced by Assembly Member Chu**

February 17, 2016

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An act to add Sections 8221.6 and 8221.7 to the Education Code, relating to child care and development.

LEGISLATIVE COUNSEL'S DIGEST

AB 2133, as amended, Chu. Child care: alternative payment programs: appeals process.

Existing law, the Child Care and Development Services Act, requires the State Department of Education to contract with local contracting agencies for alternative payment programs that are intended to allow for maximum parental choice in child care.

This bill would require the department to establish a 2-step appeals process for parents who receive child care subsidies, as specified, and a 2-step appeals process for family child care providers who receive child care subsidy payments, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. It is the intent of the Legislature to do all of the  
2 following:

1 (a) To ensure that parents eligible for child care subsidies  
 2 through the alternative payment program, also known as the  
 3 contractor, receive accurate and reliable information as to their  
 4 eligibility for services and their right to choose the appropriate  
 5 early education program for their child, and that eligible providers  
 6 are able to care for subsidized children in accordance with state  
 7 statute.

8 (b) To ensure that the providers of care receive appropriate  
 9 referrals and accurate and timely payment for their services.

10 (c) To establish appeals processes to ensure that parents and  
 11 providers have administrative remedies when they have reason to  
 12 believe that a decision by an alternative payment program is  
 13 incorrect.

14 SEC. 2. Section 8221.6 is added to the Education Code, to  
 15 read:

16 8221.6. (a) The department shall establish a two-step appeals  
 17 process for parents who receive subsidies that includes a first step  
 18 within the alternative payment program agency with the hearing  
 19 officer being an administrative employee other than the employee  
 20 who made the decision that is being appealed, and a second step  
 21 within the Early Education and Support Division. The department’s  
 22 decision shall be final.

23 (b) (1) (A) ~~The contractor through the notice of action~~  
 24 *contractor, through the notice of action*, shall notify the parent of  
 25 his or her appeal rights as established under this section any time  
 26 a notice of action is sent to the parent. As used in this section,  
 27 “contractor” means the local contracting agency that has entered  
 28 into an agreement with the department for an alternative payment  
 29 program.

30 (B) The contractor shall complete a notice of action if the  
 31 application for services is approved, or when changes are made to  
 32 the service agreement. These changes may include, but are not  
 33 necessarily limited to, an increase or decrease in parent fees, an  
 34 increase or decrease in the amount of services or termination of  
 35 services, or a violation of parental choice.

36 (C) The contractor shall mail or deliver the notice of action to  
 37 the parent at least 14 calendar days before the effective date of the  
 38 intended action.

1 (D) If the parent disagrees with an action, the parent may file a  
2 request for a hearing with the contractor within 30 calendar days  
3 of the date the notice of action was received.

4 (E) Upon the filing of a request for hearing, the intended action  
5 shall be suspended until the review process has been completed.  
6 The review process is complete when the appeal process has been  
7 exhausted, including the second step at the department, or when  
8 the parent abandons the appeal process.

9 (F) Within 10 calendar days following the receipt of the request  
10 for a hearing, the contractor shall notify the parent of the time and  
11 place of the hearing. The time and place of the hearing shall, to  
12 the extent possible, be convenient for the *parent and shall be held*  
13 *no later than 14 calendar days after the date when the notice of*  
14 *hearing was sent to the parent.*

15 (G) The hearing shall be conducted by an administrative staff  
16 person who shall be referred to as “the hearing officer.” The  
17 hearing officer shall be at a staff level higher in authority than the  
18 staff person who made the contested decision.

19 (H) The parent, or the parent’s representative of his or her  
20 choosing, shall be required to attend the hearing. If the parent or  
21 the parent’s representative fails to appear at the hearing, the parent  
22 shall be deemed to have abandoned the appeal.

23 (I) The contractor shall arrange for the presence of an interpreter  
24 at the hearing if one is requested by the parent.

25 (J) The hearing officer shall explain to the parent the legal,  
26 regulatory, or policy basis for the intended action.

27 (K) During the hearing, the parent shall have an opportunity to  
28 explain the reason or reasons he or she believes that the contractor’s  
29 decision was incorrect. The contractor’s staff shall present any  
30 material facts they believe were omitted by the parent.

31 (L) The hearing officer shall mail or deliver to the parent a  
32 written decision within 10 calendar days after the hearing.

33 (2) If the parent is receiving Stage 1 CalWORKs child care  
34 funding, the appeals process applicable to the CalWORKs program  
35 pursuant to Chapter 2 (commencing with Section 11200) of Part  
36 3 of Division 9 of the Welfare and Institutions Code shall apply.

37 (c) (1) If the parent disagrees with the written decision from  
38 the contractor, the parent has 30 calendar days in which to appeal  
39 to the Early Education and Support Division.

1 (2) If the parent does not submit an appeal request to the Early  
2 Education and Support Division within 30 calendar days, the  
3 parent’s appeal process shall be deemed abandoned and the  
4 contractor may implement the intended action.

5 (3) The parent shall specify in the appeal request the reason or  
6 reasons why he or she believes the contractor’s decision is  
7 incorrect.

8 (4) Upon receipt of an appeal request, the Early Education and  
9 Support Division shall request copies of the basic data file  
10 including the intended notice of action and the contractor’s written  
11 decision and other relevant materials from the contractor. The  
12 Early Education and Support Division may also conduct any  
13 investigations, interviews, or mediation necessary to resolve the  
14 appeal.

15 (5) The decision of the Early Education and Support Division  
16 shall be mailed or delivered to the parent and the contractor within  
17 30 calendar days after receipt of the appeal request.

18 (d) (1) The contractor shall comply with the decision of the  
19 Early Education and Support Division immediately upon receipt  
20 of that decision.

21 (2) The contractor shall be reimbursed for child care and  
22 development services that are delivered to a family during the  
23 appeal process.

24 (3) If a contractor’s determination that a family is ineligible is  
25 upheld by the Early Education and Support Division, services to  
26 the family shall cease upon receipt of the Child Development  
27 Division’s decision by the contractor. *If such a decision is made,*  
28 *the contractor shall notify the affected provider and parent of that*  
29 *decision.*

30 (e) As used in this section, “Early Education and Support  
31 Division” means the Early Education and Support Division of the  
32 department.

33 SEC. 3. Section 8221.7 is added to the Education Code, to  
34 read:

35 8221.7. (a) The department shall establish a two-step appeals  
36 process for licensed and license-exempt family child care providers  
37 who receive subsidy payments through an alternative payment  
38 program. The first step shall be within the alternative payment  
39 program agency with the hearing officer being an administrative  
40 employee other than the employee who made the decision that is

1 being appealed, and a second step within the Early Education and  
2 Support Division. The department’s decision shall be final.

3 (b) (1) The contractor, through the certificate that authorizes  
4 the provider to care for a child in the subsidy program, shall notify  
5 the provider of his or her appeal rights as established under this  
6 section. Appealable issues may include, but are not necessarily  
7 limited to, ~~initial approval or denial of~~ *lack of notification of change*  
8 *in the status of parents’ eligibility for care*, accurate payments for  
9 services rendered, and timeliness of payments for services ~~rendered.~~  
10 *rendered if submitted timesheets are complete and have met the*  
11 *timeframes in the contractor’s schedule of timesheet submissions.*  
12 As used in this section, “contractor” means the local contracting  
13 agency that has entered into an agreement with the department for  
14 an alternative payment program.

15 (2) The contractor, through the certificate of authorization for  
16 care, shall initially notify the provider of the terms and conditions  
17 of services to a parent and his or her children and any changes  
18 thereafter. The contractor shall mail or deliver the notice of changes  
19 to the provider at least 14 calendar days before the effective date  
20 of the intended change. If the provider disagrees with an action,  
21 the provider may file a request for a hearing with the contractor  
22 within 30 calendar days of the date the notice was received by the  
23 provider.

24 (3) Upon the filing of a request for hearing, the intended action  
25 shall be suspended until the review process has been completed.  
26 The review process is complete when the appeal process has been  
27 exhausted, including the second step at the department or when  
28 the provider abandons the appeal process.

29 (4) Within 10 calendar days following the receipt of the request  
30 for a hearing, the contractor shall notify the provider of the time  
31 and place of the hearing. The time and place of the hearing shall,  
32 to the extent possible, be convenient for the *provider and shall be*  
33 *held no later than 14 calendar days after the date when the notice*  
34 *of hearing was sent to the provider.*

35 (5) The hearing shall be conducted by an administrative staff  
36 person who shall be referred to as “the hearing officer.” The  
37 hearing officer shall be at a staff level higher in authority than the  
38 staff person who made the contested decision.

39 (6) The provider, or the provider’s representative of his or her  
40 choosing, is required to attend the hearing. If the provider or the

1 provider’s representative fails to appear at the hearing, the provider  
2 shall be deemed to have abandoned the appeal.

3 (7) The contractor shall arrange for the presence of an interpreter  
4 at the hearing if one is requested by the provider.

5 (8) The hearing officer shall explain to the provider the legal,  
6 regulatory, or policy basis for the intended action.

7 (9) During the hearing, the provider shall have the opportunity  
8 to explain the reason or reasons he or she believes that the  
9 contractor’s decision is incorrect. The contractor’s staff shall  
10 present any material facts that they believe were omitted by the  
11 provider.

12 (10) The hearing officer shall mail or deliver to the provider a  
13 written decision within 10 calendar days after the hearing.

14 (c) (1) If the provider disagrees with the written decision from  
15 the contractor, the provider has 30 calendar days in which to appeal  
16 to the Early Education and Support Division.

17 (2) If the provider does not submit an appeal request to the Early  
18 Education and Support Division within 30 calendar days, the  
19 provider’s appeal process shall be deemed abandoned and the  
20 contractor may implement the intended action.

21 (3) The provider shall specify in the appeal request the reason  
22 or reasons why he or she believes the contractor’s decision is  
23 incorrect.

24 (4) Upon receipt of a request for appeal, the Early Education  
25 and Support Division shall request copies of the basic data file,  
26 including the intended notice of action and the contractor’s written  
27 decision and other relevant materials from the contractor. The  
28 Early Education and Support Division may also conduct any  
29 investigations, interviews, or mediation necessary to resolve the  
30 appeal.

31 (5) The decision of the Early Education and Support Division  
32 shall be mailed or delivered to the provider and the contractor  
33 within 30 calendar days after receipt of the appeal request.

34 (d) (1) The contractor shall comply with the decision of the  
35 Early Education and Support Division immediately upon receipt  
36 of that decision.

37 (2) The contractor shall be reimbursed for any child care and  
38 development services that are delivered by a provider during the  
39 appeal process.

1 (3) If a contractor’s determination is upheld by the Early  
2 Education and Support Division, the intended action proposed by  
3 the contractor shall be carried out or upheld. *If the appeal is upheld,*  
4 *the contractor shall notify the provider and the parent who was*  
5 *initially affected by the original decision.*

6 (e) As used in this section, “Early Education and Support  
7 Division” means the Early Education and Support Division of the  
8 department.

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