

Legislative Update for April 8, 2016 MSFCCA Quarterly Meeting

HB 150/SB 190 Budget Bill

This year's budget was the least challenging for early childhood programs in many years. The Child Care Subsidy Program received an increase of \$5.8 million in light of the new federal requirement for all vouchers to be issued for 12 months, but the increase may be vastly insufficient. Proposed budget narrative will require MSDE to report their cost projections for the 12 month vouchers to the General Assembly on a regular basis beginning on October 1.

At the March 23rd MFN Public Policy meeting, Madie Green, speaking for MSFCCA, raised the concern that the new 12 month vouchers would give parents a greater opportunity to commit fraud. The feds want to shift the focus of the subsidy program from a work support program for parents to an early education and care program for children, and therefore, continuity of care really matters now, even though it's going to be much more expensive. (Caveat: it may mean spending more money on fewer kids. What impact will that have on providers?) Here's what the federal Administration for Children and Families, Office of Child care has to say about 12 month vouchers and fraud.

CCDF Reauthorization Frequently Asked Questions

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<http://www.acf.hhs.gov/programs/occ/resource/ccdf-reauthorization-faq#top>

12 MONTH ELIGIBILITY

Does the law specify a length of time for re-determining a family's eligibility?

Yes, the law establishes 12 month eligibility re-determination periods for CCDF families, regardless of changes in income (as long as income does not exceed the federal threshold of 85% of State Median Income) or temporary changes in participation in work, training, or education activities. This change essentially provides for continuous eligibility for families throughout the 12 month period as long as they do not exceed the federal income threshold or experience a non-temporary change in work, education or training that affects eligibility.

- Under the law, States may not terminate CCDF assistance during the 12-month period if a family has an increase in income that exceeds the State's income eligibility threshold, but not the federal threshold of 85% SMI.
- In addition, the State may not terminate assistance prior to the end of the 12 month period if a family experiences a temporary job loss or temporary change in participation in a training or education activity. In addition to temporary job loss, other examples of temporary changes include, but are not limited to: absence from employment due to extended medical leave or changes in seasonal work schedule, or if a parent enrolled in training or educational program is temporarily not attending class between semesters.

The intent of this provision is to promote continuity of care and extend the time period that eligible children and families have access to child care assistance. Low-income families can

experience rapid and multiple changes within a short period of time and unemployment and job loss are very disruptive to families. Retention of eligibility during a temporary period of unemployment or extended leave due to illness, for example, can alleviate some of the stress on families and facilitate a smoother transition back into the workforce. Stable child care is critical to strengthening parents' ability to go to work, improve their prospects in the job market, and increase their earning potential. In addition, continuity is important for creating the stable conditions children need for their healthy development and preparing for school. Research shows that children have better educational and developmental outcomes when they have continuity in their child care arrangements. Concurrently, research has shown that frequent changes in arrangements are associated with higher levels of stress and negative behavior in young children (Dicker, S., and Gordon, E., Zero to Three, 2004).

(Reference: Section 658E(c)(2)(N)(i))

IMPROPER PAYMENTS AND FRAUD

How will changes to eligibility change State processes to protect against improper payments?

Determining whether payments have been made correctly depends on the rules the state establishes within the limitations of how federal funds may be used. The law requires States to consider a child to be eligible for the full 12 month period despite temporary changes in the parent's status as working or participating in training or education activity and despite an increase in income above the State's threshold (as long as income does not exceed the Federal limit of 85% SMI). This means that it is not necessary to have strict policies that require reporting of minor changes in circumstances as the changes would not likely impact eligibility. It also minimizes risk of a State issuing an improper payment just by virtue of the fact that the law provides for continuous eligibility for families over the 12 month period. States also may put in place policies that freeze copayment levels during the 12-month eligibility period, eliminating the need for most reports of modest changes in income, while permitting families to report those changes so that their copayment can be adjusted if their income falls and their ability to pay is reduced.

ACF encourages States to have in place strong internal controls and program integrity efforts to help ensure that program dollars are going to low-income eligible children and families for which assistance is intended; however, it is important to ensure that these efforts do not inadvertently impair access for eligible families.

Bills about Child Care

HB 329/SB 312 Children- Family Child Care Homes and Child Care Centers – Advertising and Penalties

Both HB 329 and SB 312 have been amended (identically) and passed.

OCC will now be able to issue citations for advertising a family child care home or child care center without a license, and the advertisements will be sufficient evidence of operating without a license, so a

parent's sworn affidavit that s/he is paying an illegal provider is no longer necessary for OCC to issue citations. This should make enforcement against illegal providers easier for OCC.

The following amendments were made to the bills:

1. Eliminate a provision that a child care license number appearing in an advertisement be accompanied by an additional statement about the requirements of State law.
2. Specify that "fire marshal" includes the State fire marshal and, where applicable, local fire marshals.
3. Add a provision that a licensee advertising multiple child care centers may list the license number of one center rather than all centers.
4. Eliminate proposed fine increases, leaving the fines at levels set in current law.
5. Eliminate a provision that would have expanded enforcement authority to law enforcement officers other than the State and local fire marshals.
6. Specify that in the case of an unlicensed provider advertising in violation of the law, a warning letter be issued. And further specify that if after 10 business days the provider does not reply or does not adequately address the charge in the warning letter, the Department and the fire marshal may visit the child care home or center, the Department may issue a civil citation, and fire marshal may take other action authorized in current law.

In negotiating the amendments that got the bill passed, we encountered numerous comments and criticisms from legislators who didn't understand why the nice lady down the street needs to be regulated just to watch a couple kids. MFN has promised to have a discussion with interested legislators in the interim (between legislative sessions) to discuss how we could reduce administrative burdens without making child care less safe and developmentally appropriate for children. These meetings will most likely occur during the work day to accommodate the legislators' schedules, but we will make every effort to engage all stakeholders and associations, including family child care, in the process.

HB 1391 Large Family Child Care Homes and Child Care Centers – Green Product Cleaning Supplies - Regulations

HB 1391 had a hearing but was never brought up for a committee vote (even though the sponsor is a member of the committee). It is dead for this year.

This bill would have required MSDE to adopt regulations requiring large family child care homes and child care centers to use green cleaning products. The proponents of the bill noted at the hearing that there was no opposition to the bill, because MSCCA, MDAEYC and MSACCA submitted favorable with amendment testimony requesting a work group, and MSFCCA's written testimony had not yet been delivered. But all the associations let committee members know following the hearing that there was not a common agreement about how green cleaning supply regulations should be applied to child care programs. It may be a good idea after the session for all the child care organizations to reach out to OCC and talk about the impact green cleaning regulations would have on child care providers and children in their care.

SB 305 Family Child Care Providers – High School Diploma or GED Test

SB 305 got an unfavorable report in the Senate Education, Health and Environmental Affairs Committee.

SB 305 was intended to make the educational requirements for a family child care provider equivalent to the requirements for a child care center teacher. The sponsor was supposed to submit an amendment that aligned to bill with the center regulations, but for some reason, the amendment was not submitted, although it was referenced as the sponsor's amendment in MFN's testimony and was also referenced in MSDE's information letter.

If MSFCCA wants to introduce the bill again next year, you're welcome to bring a draft to the MFN Public Policy Committee meeting to get support from other associations and early childhood stakeholders. It would also be helpful to have a sponsor on the committee to which it will be assigned, or a sponsor known as an early childhood champion. It could also be helpful to have the bill cross-filed, so there will be two identical bills each with a sponsor who will champion the bill and work for its passage in their chamber. This year's sponsor of SB 305 did not seem to understand family child care and did not seem to champion her own bill. It will also be important to hear what the legislators who want to de-regulate family child care have to say about setting a bar for family child care entry equal to the bar for child care center teachers. The next several months would be a good time to start working on this.

SB 282 Early Childhood Development – Transfer of Provisions

SB 282 has passed.

This bill moves the provisions of law relating to early childhood development from the Family Law Article to the Education Article in the Maryland Code, recognizing the move of child care and other early childhood programs from DHR to MSDE a decade ago. After this becomes effective on June 1, 2016, child care regulations will have to go to the State Board of Education for approval, which adds an extra layer of bureaucracy and possibly extra time to the promulgation of regulations. Its positive side is that child care legislation will be more likely to go to the House Ways & Means Committee and its Education Subcommittee, instead of the Health & Government Operations Committee, which does not seem to understand child care.

HB 245/SB 310 Child Abuse and Neglect – Failure to Report

HB 245 has passed; SB 310 is close to passing.

Most states impose fines and/or jail time for failing to report child abuse and neglect. Maryland does neither. This bill does not impose any penalties but will require the investigating agency to report the failure to a mandated reporter's licensing agency or employer. For child care this will mean that if a law enforcement or child protective services agency is investigating the abuse or neglect of a child in child care and has substantial grounds to believe that a provider has knowingly failed to make a required report of suspected abuse or neglect, it must file a complaint with the Office of Child Care or with the provider's employer.

Bills about Pre-K

HB 657/SB 794 Education – Prekindergarten and Kindergarten Assessments – Administration

HB 657 and SB 794 are very close to being passed.

This bill as amended will require the Kindergarten Readiness Assessment (KRA) to be limited to a representative (no longer random) sample of kindergarten students, as determined by MSDE, in each local

school system. It will allow a school or a school system to administer the KRA to all kindergarten students if (1) the assessment is completed before the first full day of kindergarten and (2) the aggregate results are returned within 45 days after administration. The bill also states the intent of the General Assembly that a teacher who administers the KRA prior to the first day of school is paid for the time worked in accordance with a collective bargaining agreement.

HB 668/SB 584 Preschool Development Grants – Expansion Grants – Required State Funding

HB 668 is passed, and SB 584 is close to passage.

This bill requires the Governor to put \$3.7 million in the FY 2018 budget and \$7.3 million in the FY 2019 budget to meet the matching requirement of the four year federal preschool expansion grant Maryland received in 2015. Maryland uses this money for PreK expansion in community-based settings. Governor Hogan opposes any new mandates for funding, so he may choose to veto this bill. If he vetoes the bill and then does not include the funding in the next two budget years, Maryland may lose the \$15 million from the federal government in each of those years.

HB 1095/SB 369 Education – Prekindergarten Programs – Notification of Eligibility by Local Departments of Social Services

Both HB 1095 and SB 369 have passed.

This bill will require local DSS offices and local health departments to give parents who apply for other services notice that their child who will be 4 by September 1 may be eligible for public Pre-K, and to give them information about how to enroll in school- or community-based Pre-K.

Bills about Children with Special Needs and Health

HB 715/SB 644 Early Identification of Autism Act

Neither of these bills made it out of the committee that heard it, and they will not pass.

Advocates for children with disabilities were concerned that the bill focused on screening by pediatricians for only one disability and mentioned one specific screening tool.

HB 1431 Vehicle Laws – Prohibition Against Smoking in Vehicle Containing Young Child

This perennial bill did not get out of committee again this year.

The bill would not have applied to child care providers, who are already prohibited from smoking in a car with kids. It's just a children's health issue, with a bonus for providers that children wouldn't arrive at child care smelling like they just rolled out of a dirty ashtray. MFN was asked by the original sponsor to support the bill, probably a decade ago, and we do every year, but it doesn't get enough support to prioritize kids' health over "smokers' rights."

Bills about Tax Relief for Families

HB 452/SB 384 Earned Income Tax Credit – Expansion (Administration bill)

HB 1047/SB 294 Earned Income Tax Credit – Expansion

HB 1048/SB 295 **Income Tax – Earned Income Credit – Refundability**
HB 1253 **Income Tax – Earned Income Tax Credit – Refundability (Augustine**
 Commission bill)
SB 840 **Income Tax – Rates, Personal Exemptions, and Earned Income Tax Credit**
 (Augustine Commission bill)

Tax relief was a big issue for the Governor this year, and the General Assembly is still working it out.