



119 Washington Ave. ♦ Albany, NY 12210
Phone 518.462.6831 ♦ Fax 518.935-2852
www.empirejustice.org

Memorandum of Support with Recommendations

Child Day Care Waiting Lists A.5836 (Walker)

This bill would amend Social Services Law §410-z to require local social services districts to maintain waiting lists of all families who are eligible for child care assistance, and to provide an annual report to the Office of Children and Family Services (OCFS) commencing October 15, 2019, which will detail the length of time that eligible families remain on the waiting list before they receive child care services, and OCFS in turn will compile the county by county reports into one comprehensive report which will be submitted to the Governor and the Legislature no later than December 1, 2019.

The amendment to §410-z will also require each social services district to provide an annual report by month, which details by poverty percentages the income levels of all families that apply for and receive child care subsidies, as well as the income levels of those families that are denied child care services. This amendment is critically important for the reasons set forth below. Empire Justice Center strongly supports this bill and has suggestions for three technical amendments that would strengthen it.

Background

Currently, no statewide data is available which describes participation in New York's child care subsidy program by income level. This is critically important information because it will help policy makers determine whether New York State's eligibility policies are effective. This is particularly true with respect to establishment of parent fees for child care. Although most of the over \$900 million that is spent on child care each year in this state consists of federal funds (from the Child Care and Development Block Grant or transferred from the Temporary Assistance to Needy Families Block grant), the cost of a child care subsidy and many eligibility rules are determined at a local level. As a result, families are treated differently depending upon the social services district in which they reside.¹ For example, each district is allowed to choose the percentage of household income that families pay as a parent fee (also known as co-payment). This means that the cost of child care for similarly situated families depends on

where they live. In twenty counties across the state, a family of three at 200% of poverty pays a parent share of \$135.69 per week for a child care slot (\$7,056 per year, or 17.5% of their income); in three counties the same family would pay \$38.77 per week (\$2,016 per year, or 5% of their income). The remaining social services districts charge parent fees at many different points in between, as indicated by the chart found at <http://www.empirejustice.org/assets/pdf/policy-advocacy/memos/copay-disparity-chart-april.pdf>.

This is fundamentally unfair. Once a family is required to pay more than 10% of its income for a child care subsidy, financial stress is inevitable – it becomes a challenge to both pay the rent and pay for child care, putting the family and risk of job loss or the child at risk if the family chooses to make ends meet by putting the child in less expensive, underground child care that does not comply with health and safety regulations. This bill will require the accumulation of the critical data that will show the effect that high co-payments have on participation in the subsidy program.

Technical amendments

1. **Define “eligible families”:** This bill requires that local social services districts keep waiting lists of “eligible” families. Under Social Services Law §410-w, families with incomes under 200% of poverty are financially eligible for child care. Some social services districts have lowered their eligibility levels below 200% of poverty because of limited funds. This bill should clarify that waiting lists must include otherwise eligible families at or below 200% of the poverty level in social services districts where families have lowered eligibility because of limited funds. This could be accomplished by the addition of a new section 2(c) of the bill, which would state:

For purposes of this subdivision, “eligible family” shall include all families up to 200% of poverty who are otherwise eligible, but who may have been denied assistance because the social services district does not have enough funds to serve all eligible families and has opted to apply its funds to lower income families as a priority population.

2. **Require more detail about income level:** In order to more accurately assess the effect of high co-payments, we also suggest that the report proposed in § 410-z(3)(b) require that local social services districts provide information by quartile of income, and include any information where available about any families who are otherwise eligible but who decline child care assistance because of the size of the parent share. We also suggest that the number of individuals on public assistance receiving child care subsidies be provided. These proposed amendments are as follows:

(b) Each district shall issue a report to the office of children and family services by October fifteenth, two thousand seventeen, and annually thereafter, detailing month-to-month information collected pursuant to this subdivision for the preceding period of October first through September thirtieth, and shall include the following:

(i) the number of all families who applied for and received child care assistance pursuant to this title whose:

(A) incomes were under one hundred one percent of the federal poverty level for their family size AND WERE IN RECEIPT OF CASH PUBLIC ASSISTANCE,

(B) INCOMES WERE UNDER ONE HUNDRED ONE PERCENT OF THE FEDERAL POVERTY LEVEL FOR THEIR FAMILY SIZE AND WERE NOT IN RECEIPT OF CASH PUBLIC ASSISTANCE,

(B-C) incomes were between one hundred one percent and one hundred TWENTY-FIVE ~~forty~~ percent of the federal poverty level for their family size, and

(C-D) incomes were between one hundred ~~one percent and one hundred TWENTY-SIX ~~forty~~ percent~~ AND ONE HUNDRED AND FIFTY PERCENT of the federal poverty level for their family size, and

(C- E) incomes were between one hundred fifty-one percent AND ONE HUNDRED AND SEVENTY-FIVE ~~two hundred~~ percent of the federal poverty level for their family size; and

(F) INCOMES WERE BETWEEN ONE HUNDRED AND SEVENTY-FIVE AND TWO HUNDRED PERCENT OF THE FEDERAL POVERTY LEVEL FOR THEIR FAMILY SIZE; and

(ii) the number of all families who applied for and were denied child care assistance pursuant to this title whose:

(A) incomes were under one hundred one percent of the federal poverty level for their family size, AND WERE IN RECEIPT OF CASH PUBLIC ASSISTANCE,

(B) INCOMES WERE UNDER ONE HUNDRED ONE PERCENT OF THE FEDERAL POVERTY LEVEL FOR THEIR FAMILY SIZE AND WERE NOT IN RECEIPT OF CASH PUBLIC ASSISTANCE,

(B-C) incomes were between one hundred one percent and one hundred TWENTY-FIVE ~~forty~~ percent of the federal poverty level for their family size, and

(C-D) incomes were between one hundred ~~one percent and one hundred TWENTY-SIX ~~forty~~ percent~~ AND ONE HUNDRED AND FIFTY PERCENT of the federal poverty level for their family size, and

(C- E) incomes were between one hundred fifty-one percent AND ONE HUNDRED AND SEVENTY-FIVE ~~two hundred~~ percent of the federal poverty level for their family size; and

(F) INCOMES WERE BETWEEN ONE HUNDRED AND SEVENTY-FIVE AND TWO HUNDRED PERCENT OF THE FEDERAL POVERTY LEVEL FOR THEIR FAMILY SIZE; and

3. Allow OCFS to expand the scope of the report: Finally, we suggest that the new proposed legislation be amended to allow OCFS to require additional information in the annual report. That could be done by amending § 410-z(3)(b) to add a section (ii) which would state:

Other information as OCFS deems appropriate.

This memorandum was prepared by:

Susan C. Antos

santos@empirejustice.org

(518) 935-2845

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ⁱ C. Betterley, S. Akhtar, S. Antos and G. Grasso, *Still Mending the Patchwork: A Report Examining County-by-County Disparities in Child Care Subsidy Administration in New York State*, Empire Justice Center (2014), available at <http://www.empirejustice.org/assets/pdf/publications/reports/mending-the-patchwork-1.pdf>.