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California's rising minimum wage:
Opportunities and challenges for early care and education

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Introduction

California's recently enacted law increasing the minimum wage in graduated stages across the state to $15 by 2022 for large business and 2023 for all businesses offers much-needed relief for millions of low-income workers across the state. Additionally, 19 cities/counties in California have enacted local minimum wage laws which will accelerate the timing and exceed the wage floor for the state as a whole. This overhaul of a major cornerstone of the state's economic infrastructure, in the words of Governor Brown, "is about putting a little bit of balance in a system that every day becomes more imbalanced" for so many Californians.

Among the Californians in desperate need of higher earnings are the more than 100,000 members of the predominantly female, ethnically and racially diverse early care and education (ECE) workforce, charged with the responsibility of caring for and educating our state's youngest children. In 2015, the median wage for California's child care workers was $11.61, a one percent decrease since 2010. For preschool teachers, who have experienced no change since 2010, the median wage was $15.25, per hour. Nearly half (47 percent) of child care worker families' in California participate in one or more public income support programs to supplement their meager earnings, with a cost of $166.4 million per year in public dollars. In 15 out of 30 metropolitan areas in California, more than 90% of child care workers don't make enough to afford the basic cost of living in their area.

Approximately three-quarters of the ECE workforce earns less than $15 per hour, and stands to benefit from the new minimum wage, as do many parents who rely on their services. Among California's more than 3 million children age birth through five years, 61 percent live in households where all available parents are currently working, and 26 percent of all California children under the age of six are part of low-income families. A higher minimum wage has the potential, but not a guarantee, to lift off some of the cost burden shouldered by many low-wage earning parents of young children.

The success of the renovation of the wage infrastructure, however, depends on how it aligns with the still outmoded and inadequate ECE system, widely recognized for its critical role in supporting working parents and ensuring children's optimal development and learning. For many years, a broad range of stakeholders, including policymakers, researchers, advocates, and parents and providers have been calling for an overhaul of our severely under-resourced and inequitable early care and education system which currently shortchanges the majority of young children in the state. Now, greater economic security afforded by an increasing minimum wage further underscores the need for substantive ECE reform and increased investment as we explain briefly below. Following, we offer some preliminary recommendations for addressing the challenges we have identified.

Note: We recognize that other human service systems, such as home health care and assistance to those with developmental disabilities, must grapple with similar challenges to those facing ECE. These arise from the increasing minimum wage coupled with historic program underfunding and will also require reform to optimize the benefits of a higher minimum wage. However, due to the differences in how the systems are structured and operate, we focus solely on ECE in this memo.

Key Features of the California Early Care and Education System

To accurately assess potential challenges posed by new minimum wage laws in California in relation to the early care and education system, below we highlight key inter-related features of the ECE system necessary for consideration.

One: Targeted and limited public funding

- Unlike K-12 education, early care and education is not a universal entitlement. Only families with incomes below a certain threshold and/or children with identified risks qualify for publicly subsidized services.
    - Current federal law permits states to set eligibility for child care subsidies as high as 85 percent of the state Median Income (SMI). Currently California sets eligibility for child care subsidy at 70 percent of the SMI that was in use for the 2007-08 fiscal year (based on family size), which equals 55 percent of the SMI in 2016 dollars.
- Among those eligible for subsidies, even at restricted levels, only a fraction of families receive them due to high demand and insufficient public funding.
    - About 355,000 subsidized childcare spaces are currently available through the California's subsidy system, but close to 1 million eligible children have no access to it.

    - According to the American Institutes for Research, about 170,000 California children who are eligible for publicly funded preschool are not enrolled because there are not enough spots for them.
    - Less than one third of the 110,000 child care and preschool slots lost between 2008 and 2013 have been replaced as of this year.
- Many families who earn too much to qualify for subsidies would be eligible for them if California set eligibility at the maximum amount allowable by the federal government.
- Families who are eligible for funding but cannot access subsidies shoulder the full burden of paying for service.
    - Many low income families do not benefit from the child care tax credit because they do not owe additional taxes.
- Many families who earn above the recommended federal ceiling for child care eligibility exceed the child care affordability threshold of 10 percent of family income established by the Department of Health and Human Services. This extends beyond families with low earnings to many earning the SMI and above.

Two: Rules governing eligibility and fees reinforce system inequities which undermine well-being for many children and families

- Families qualifying for services face dramatically different ECE expenses depending on whether they can or cannot access subsidized services.
- An eligibility cliff and/or steep increases in fees as family income rises poses economic hardship on families receiving subsidized child care who benefit from the higher minimum wage (included in this are members of the ECE workforce that receive child care subsidies for their own children).
- Subsidized and private rates for services are coupled.
    - Programs that serve both private paying families and families paying with subsidy vouchers, receive voucher payments only up to the fee that they charge unsubsidized parents, even if the regional market rate is higher. Thus, when the state raises voucher reimbursement rates to help programs serving subsidized families to cover increasing labor costs, those programs charging private fee families less than the new rate ceiling cannot avail themselves of higher rates, without increasing fees charged to private paying families, who may not be able to afford to pay more. Thus, well-intentioned subsidy reimbursement rate increases may exacerbate inequities among low income families, notably income eligible but private paying families using the same care as families receiving subsidies.[i]

Three: Rate setting reinforces low earnings and inequities for the workforce

- State reimbursement rates set in accordance with the market rate (voucher-based programs) reflect and fuel the depressed wages in the ECE industry:
  - Under federal rules, states escape scrutiny of their base rates if they are at 75^{th} percentile of the most recent market rate survey, thereby generally excluding families who can little afford large out of pocket costs from costly programs paying the highest wages. New rules allow states to use alternative methodologies to set rates.
- California has long relied on a dated market survey to set reimbursement rates for voucher programs, and sets contracted program rates according to an outdated, fixed, statewide rate, resulting in reimbursement far below the 75^{th} percentile benchmark, which itself fails to capture the full range of costs. The budget bill that was signed into law on June 27, 2016, maintains the current Regional Market Rate ceilings through December 31, 2016. On January 1, 2017, the new ceilings will be established at the 75th percentile of the 2014 Regional Market Rate survey or at the Regional Market Rate ceilings as they existed prior to December 31, 2016, whichever is higher.
  - License-exempt child care providers' ceilings will increase to 70% of the family child care home rate.[ii]
  - The standard reimbursement rate for contracted programs was also increased, but is not equal to the 75^{th} percentile regional market rate in many regions, yet these programs (Title V) are required to employ staff with higher qualifications than programs receiving vouchers. This drives irrationalities and inequities in the system whereby funding source, setting, and age of child, rather than educational qualifications, determine wage rates for the ECE workforce.
  - Note that reimbursement rates are not necessarily connected to higher wage rates and thus even the intention in the recent budget may not result in higher wage rates for some ECE staff.

Four: Differential sector and program requirements drive varied workforce challenges resulting from changes in wage laws

- Self-employed, home-based provider earnings are not recognized as governed by federal or state wage and hour laws, but those of their paid assistants are. Thus, home-based providers who employ assistants will see an increase in their labor costs without commensurate increases in rates or the ability to raise fees to offset those costs, or to increase earnings for themselves.
- For home-based and center providers that serve a mix of subsidized and unsubsidized children, minimum wage increases will require them to choose between raising rates for private paying families or forego charging higher rates and possibly covering increased

labor costs by reducing staff work schedules or benefits. (Raising revenue by serving more children is limited by licensing capacity and staff ratios based on settings and ages of children served.)

- Members of the ECE workforce utilizing child care subsidies for their own children and other benefits, such as housing subsidies, may be threatened by a wage increase if eligibility and fee schedules are not expanded and aligned in step with rising wages.
- Without sufficient reimbursement rate relief or additional revenue, raising the wage floor could lead to wage compression (already an issue due to the low educational premium among ECE teachers) in programs requiring more highly educated staff or those that choose to hire staff with qualifications above the minimum required by licensing or program regulations. This could lead to staff discord and undermine recruitment and retention of highly skilled staff.

The Scope of the Problem: Available and Needed Evidence

Most of the evidence about the impact of new minimum wage laws, as it relates to ECE, is anecdotal based on reports from communities already implementing higher minimum wages. Preliminary findings from a forthcoming early childhood wage and benefit survey, representing approximately one-half of center-based programs in a large, urban county in which several cities have raised their minimum wage, suggests a preview of the aforementioned concerns. Note that the wage increases in this county fall short of $15 per hour. The vast majority of programs in the sample reported raising the wage of at least one member of their teaching staff. Among programs that were contracted to administer publicly funded child care services that charge parent fees (e.g., state preschool) there were no changes passed on to parents, whereas approximately one-third of private programs governed by Title 22 that reported raising wages also reported passing some or all of the related cost onto families. Investigations exploring these dynamics in other communities already implementing the minimum wage, augmented with data from home-based providers and parents, would help to inform efforts to anticipate and ameliorate any negative consequences of the new wage law as they relate to ECE.

Additionally, a new statewide California Early Care and Education Workforce study, currently being considered by the State Department of Education and other public and private partners, would provide the necessary information to estimate how many members of the ECE workforce will be affected by the higher wage floor and to determine costs associated with minimizing wage compression. This latter issue is tantamount in light of statewide efforts to recruit and retain a highly skilled ECE workforce.

Moving Forward: Recommendations for Action

Last spring California allocated funds to raise rates for programs and providers relying partially or completely on public reimbursements in order to help programs raise the wages of many in the early care and education workforce in accordance with the new law. But, as explained above, more has to be done to mitigate against other unintended consequences of the minimum wage hike, such as wage compression and increasing the fee burden on families, both those that are receiving subsidies with regard to fee adjustments and those in need of but not able to access subsidies. In order to ensure that the minimum wage does not further the inequities facing children, families, and the workforce itself, policy and resource interventions related to the minimum wage must be designed that address the dynamic intersection of California's mixed public and private delivery system.

To truly build an equitable high quality system for all California's children and families and those entrusted with their care and education will require new investments and major restructuring of the existing system. But even within constrained resources, changes in policy can address some existing and anticipated problems. The California communities leading implementation of higher wages in response to local ordinances and laws can serve as "living laboratories" for policy innovations.

To that end, we recommend the SAC and other policy bodies propose dedicated resources:

- **To support documentation of trends impacting programs, staff and families in relation to changes stemming from the minimum wage;**
- **To identify how a new California Workforce Study can assist in tracking and estimating costs of the impact of the state minimum wage in communities varied in density and geographic regions;**
- **To investigate how reimbursement policy rate setting for other human services and industries supported partially or entirely by state/federal dollars can inform innovations now permitted by the federal government as an alternative to reimbursements tied to the market rate for child care services; and**
- **To establish an innovation pool, to be matched with local and philanthropic dollars, as well as federal funds should they become available, to experiment with policies and strategies to address inequities faced by families and the workforce stemming from changes in the minimum wage, and long-standing consequences of the underfunding of ECE services. Such experimentation should strive to address the coupling of parental cost burdens and workforce compensation (wages and benefits) and can be guided by the principles and policies identified in the Early Childhood Workforce Index**.

[i] The law requires Alternative Payment Programs (agencies that distribute federal and state child care and development subsidies) to reimburse child care providers based on the rate charged by the child care provider to nonsubsidized families, if any, for the same services, up to a maximum known as the "reimbursement ceiling," which varies by county, type of child care (e.g. center or family child care home), and age of child (e.g. infant or school age). (Educ. Code § 8222 (c); 5 CAL. CODE REGS. §§ 18074.1(c).) Reimbursement to child care providers cannot exceed the fee charged to private clients for the same service. (Cal. Educ. Code § 8357(c).) Thus, if the reimbursement ceiling is higher than the amount the child care provider charges, then the APP pays the child care provider the amount charged but no more.

[ii] As noted last year by the Assembly Budget Committees on Education Finance, and Health and Human Services, "rates for licensed-exempt providers continue to remain at amazingly low levels. For example in Los Angeles, the current part-time hourly rate for licensed exempt care for a school-aged child is $2.02 per hour. Other than prison inmates, these providers may be the lowest paid workers in California." (Overview provided for the Joint Hearing of the Assembly Budget Committees on Education Finance, and Health and Human Services, April 14, 2015 at p.7).