

A LOOK AT STATE FUNDED MIGRANT CHILD CARE IN CALIFORNIA

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INTRODUCTION

Imagine this scenario: After waking up at four on a Saturday morning, a migrant farm worker drops off her child at her child care center to pick peaches in California's Central Valley. Then at five, she drops her child off in a classroom as her child is still sound asleep. As she drives away, she feels a sense of relief to know that her child is being cared for in a safe environment while she is at work.

Migrant child care is critical to the fabric of California society. There are more than 250,000 migrant and seasonal agricultural workers within California.[1] These laborers substantially contribute to the availability of fruits and vegetables for Americans across the United States. The uniqueness of migrant and seasonal work is that these workers "move with the crop," which means that they move to different areas temporarily to pick the crop that is in season. They uproot their whole lives, including their own families, to work in agricultural fields for months at a time. Migrant families often face the

burden of finding essential resources such as housing, schooling, healthcare, and child care each time they move. These resources must be made available to this workforce because of their essential services and contribution to our society.

This article examines state funded child care for migrant families in California. Child care is an essential resource for migrant agricultural families. Migrant workers deserve the right to know that their infant or toddler children are being well taken care of. California has the state funded California Migrant Child Care Program (hereinafter known as CMIG) as well as a Migrant Alternative Payment Program (hereinafter known as CMAP). However, to extend the availability of CMIG, the statutes governing this program must be clarified and understood.

This article provides a history about California Migrant Child Care, critiques the statutes themselves, and provides recommendations based on the *California State Assembly Blue Commission Report on Early Childhood Education*

Report. This article will focus on clarifying the current CMIG eligibility and priority requirements concerning the "movement" or "relocation" of families and the definition of "migrant agricultural family" itself.

What is Child Care in California?

Child care and development programs offer a variety of services for children from infancy to 13 years of age.[2] Child care and development services particularly mean services designed to meet a wide variety of needs for children and their families.[3] Their parents or guardians will be provided with child care while working, seeking employment, incapacitated, or in training.[4] These services may include direct care and supervision, instructional activities, resource and referral programs, and alternative payment arrangements.[5] The services can be offered for any part of a day, by a public or private agency, in centers and family child care homes.[6] Programs include, but are not limited to, migrant child care and development programs and alternative payment programs.[7]

The Development of the California Migrant Child Care Program

The Child Care and Development Services Act was enacted in 1976.[8] The Act enforces a detailed, cost-effective, organized system of child care and development services for children of a certain age and their parents.[9] Funds appropriated by the Act may be used for child care resources and referral programs which may be operated by public or private nonprofit entities.[10] Approval must be gained from the State Department of Education to be have alternative payment programs that allow for maximum parental choice regarding the variety of child care services that are offered within these programs.[11] The Act further states that these alternative payment programs in each county must design, maintain, and administer a system to consolidate local child care waiting lists to establish a countywide centralized eligibility list for child care and development services.[12]

The California Migrant Child Care Program was formed in 1980 with the

passage of Article 6 of the Act.[13] Article 6 states that migrant child care and development programs, including the California Migrant Child Care Program (CMIG), are administered by the Superintendent of Public Instruction (the Superintendent). In addition, the Superintendent supports the state level coordination of all agencies that offer services to migrant children and their families.[14] This includes state level coordination of existing health funds for migrants.[15] This will ensure efficient and dependable child care for migrant agricultural families.[16]

The Act also ensures that migrant child care and development programs are available in state-owned migrant housing camps, out-of-camp facilities, and licensed family child care provider homes during peak agricultural periods.[17] These programs are guided with the purpose of offering developmental services and an enriched educational component.[18] They would provide bilingual support services for families, in addition to early care and education.[19] Health professionals are regulated to be available to families at each migrant child care site.[20] County offices of education, school districts, and private non-profit agencies are given permission to operate centers and oversee family child care homes.[21]

Likewise, the Act provides that the Superintendent will administer migrant child care and development programs that are subject to the same inclusions as the inclusions for general child care and development programs.[22] These inclusions are age and developmentally appropriate activities for children; supervision; parenting education and parent involvement; social services that include, but are not limited to, identification of child and family needs and referral to appropriate agencies; health services; nutrition; and training and career ladder opportunities, documentation of which will be provided to the Department of Education.[23] In addition, The Act specifies minimum standards of program quality for all childcare and development programs and establishes eligibility and priorities.[24]

The California Migrant Child Care Program

The California Migrant Child Care Program (CMIG) is a state-level

coordination involving different public or private agencies and local educational agencies.[25] They offer services to migrant children and their families and state-level coordination of existing health funds for migrants.[26] CMIG uses centers and family child care home networks for children from birth that are operated or administered by either public or private agencies and local educational agencies.[27] In addition, these services provide an educational component that is culturally, linguistically, and developmentally appropriate for the children served. [28]

CMIG promulgated requirements regarding family eligibility and enrollment for the program.[29] Families must meet the criteria for being an agricultural worker family:

A migrant agricultural worker family is defined as a family that earns at least fifty percent of its total gross income from employment in fishing, agriculture, or agriculturally related work (define) during the twelve-month period immediately preceding the date of application for child care and development services.[30]

In addition, the family shall also meet eligibility and need criteria specified within the general child care and development programs to be eligible for a state funded migrant child care program.[31]

CMIG is available to provide physical stability for babies and toddlers. It provides meals and snacks to children, parent education, referrals to health and social services for agricultural families, and staff development opportunities to employees.[32] The Superintendent is charged with developing appropriate migrant early learning and care programs, quality indicators and social services, bilingual liaison between migrant parents, and the center or family child care home.[33] The purpose of the Program is aimed at empowering and encouraging parents and families of children who require child care services to take responsibility to review the safety of the child care program or facility.[34]

The children of migrant agricultural worker families are enrolled in The California Migrant Child Care Program on different priorities. These are the four priorities listed:

- *The family moves from place to place.*

- *The family has qualified as a migrant agricultural worker family within the past five years and is currently dependent for its income on agricultural employment, but is currently settled near agricultural areas.*
- *The family resides in a rural agricultural area and is dependent upon seasonal agricultural work*
- *Eligibility and priority for services for the federally funded Migrant Child Development Program shall be in accordance with the applicable federal regulations.[35]*

The California Migrant Alternative Payment Program

An alternative payment agency for migrant childcare and development programs, pursuant to Article 6 (commencing with Section 8230), shall provide data about childcare caseload in the program and migrant childcare development programs, pursuant to Article 6, to the department on a monthly basis.[36] This data shall include county-by-county caseload, expenditures, unit costs, family fees, and other key variables requested by the department to determine any additional state allocations to these programs and for purposes of emergency response. [37]

California created the Migrant Alternative Payment Program to help migrant families pay for the program mentioned above.[38] The program issues vouchers to eligible, migrant families that can be used to purchase child care and development services at legally operating child care providers throughout California.[39] This program provides services for children aging from birth, through twelve years of age. The funding for services follows families as they move from place to place for agricultural work.[40] The purpose of this program is to provide a cost-effective system of early learning and care services for children from infancy and their migrant parents.[41] The program encourages community-level coordination in support of early learning and care services.[42] The Migrant Alternative Payment Program requires the applicant family must have earned at least 50 percent of its total gross income from employment in fishing, agriculture or agriculturally related work during the twelve-month period immediately preceding the date of application for early learning and care



services.[43]

In addition, the alternative payment agency, including the Migrant Alternative Payment Program, in each county must design, maintain, and administer a system to consolidate local child care waiting lists to establish a countywide centralized eligibility list.[44] In counties with more than one alternative payment agency, the agency that also administers the resource and referral program has the responsibility of developing, maintaining, and administering the countywide centralized eligibility list.[45] The State Department of Education must establish a process to select the agency to develop, maintain, and administer the countywide centralized eligibility list for counties with more than one alternative payment agency and more than one resource and referral program.[46]

Each centralized eligibility list must include the following: family characteristics that include ZIP Code of residence, ZIP code of employment, and monthly income.[47] Furthermore, these programs must list the child or children's characteristics, including birth dates and whether the child requires special assistance.[48] The alternative payment program must also include service characteristics, which would mean whether there are full-time or part-time requested services and whether hours or weekend care is needed. [49]

Additionally, a contractor with a migrant child care and development program who operates on a seasonal basis must operate pursuant to Section 8230.[50] The contractor who has a local site waiting list must submit also all eligibility list information to the centralized eligibility list administrator for any parent seeking subsidized child care for whom these programs are not able to provide child care and development services.[51] A child care and development contractor or program described in this paragraph can utilize any waiting lists developed at its local site in order to fill vacancies for its specific population.[52]

The California Assembly Blue Ribbon Commission on Early Childhood Education

The formation of *The California Blue Ribbon Commission on Early Childhood Education (The Blue Ribbon Commission Report)* was initiated to conduct short term discussions about long term visions for future childcare.[53] *The Blue Ribbon Commission* was started by Speaker

Anthony Rendon.[54] It is comprised of year-to-year, short-term discussions.[55] Tours were conducted of a variety of early childhood education settings in various parts of the state in conjunction with the hearings,[56] including Palm Desert, Long Beach, Fresno, and Oakland.[57] The purpose of this *Report* was to lay out a long-term vision for early childhood development and education.[58] The overall goal was to support children, families, and providers so that the child care system improves outcomes for young learners,[59] and creating a pathway to achieve its vision for a comprehensive early care and education system that supports both children and families alike.[60] Although the report and its recommendations do not have the force of law or statutes, they are highly persuasive recommendations that can be used to further future migrant child care policies and procedures.

Access for children and families is another sector of importance for those who need child care.[61] The Blue Ribbon Commission recommends that all children, from birth to age five, have access to nurturing, educational, culturally, linguistically, and developmentally appropriate high-quality early care and education opportunities with a commitment to social, behavioral, emotional, cognitive and physical development, and continuity of care.[62] *The Commission* report asserts that the main goal is that families must have choices.[63] Childcare must be affordable and available during the times families work, go to school or engage in other activities to earn a living or move to economic security.[64]

The Blue Ribbon Commission report acknowledges the unique challenges migrant families face. It recognizes and recommends regulations relating to the California Migrant Child Care Program must be clarified so the children of migrant families receive a strong foundation for education and child care that helps families.[65] It recommends clarification or reform of migrant child care regulations that entails a parent to move out of the county within twelve months to remain eligible for services.[66]

Argument

Migrant agricultural families face a variety of obstacles. They often work long hours, on weekends, and possibly start work in the early mornings of the day. As stated above, *The Blue Ribbon Commission* found that the California

Migrant Child Care Program (CMIG) requires families to move every year, every twelve months to be eligible to be the first priority for the program.[67] Migrant child care regulations should not require a parent to relocate to remain eligible for services. *The Commission* recommends clarification on child care practices for migrant child care and reform migrant child care regulations to not require a parent to move out of the county every twelve-months to remain eligible for services.[68]

There are two main issues within CMIG's current framework. The first issue is the relation between the definition of "migrant agricultural family" and the definition of dependency within the priorities of enrollment for the program.[69] The second issue is that the list of priorities for enrollment into the program needs clarification.

Migrant families face numerous challenges in finding high quality child care that align with their schedules because their jobs require them to work sporadic hours and on weekends. As of now, children of migrant agricultural worker families are enrolled in child development programs on the basis of different priorities. These are the four priorities listed:

- *The family moves from place to place.*
- *The family has qualified as a migrant agricultural worker family within the past five years and is currently dependent for its income on agricultural employment, but is currently settled near agricultural areas.*
- *The family resides in a rural agricultural area and is dependent upon seasonal agricultural work*
- *Eligibility and priority for services for the federally funded Migrant Child Development Program shall be in accordance with the applicable federal regulations.*[70]

The states' view that to qualify for the federally funded Migrant Child Development Program, eligibility and priority must be in accordance with the applicable federal regulations is problematic. The underlying problem is that there is no clearly defined "federally funded Migrant Development Program." A proposed amendment to a California statute in 2012 states that federal requirements no longer apply to migrant center based

programs. There are no federal dollars used to fund migrant center based programs.[71] However, a federal Migrant Education Program seeks to ensure that all migrant students receive a high school diploma; they include three-year-old children in their services. If the "Migrant Child Development Program" is referring to the "Migrant Education Program," the correct term should be used within the California Regulations so that applicants can clarify whether they would be listed as an enrollment priority based on the correct program.

The first-priority states that the family must move from place to place, while the second priority of enrollment states that the family has qualified as a

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migrant agricultural worker family within the past five years. The *Commission* report states that to be eligible for the California Migrant Child Care program a migrant agricultural family must move every twelve months.[72] However, it was confirmed that there is no requirement to move every year to qualify for the program. Instead, the one year timeline relates to the first-priority, while the second priority is given to those migrant agricultural families that move within five years.[73] There is no one year relocation requirement to qualify for the California Migrant Child Care program.[74] Instead, one must move every year to fall within the first-priority of enrollment, not eligibility.[75] This means that a

migrant agricultural family can still be eligible for the program even if the family has not moved every year. There must be a firm distinction within the statute regarding the eligibility requirements and the priorities of enrollment because, as seen in the *Report*, it can cause discrepancy and misunderstanding about the qualifications for the program.

To be considered a "migrant agricultural family," the family must have made fifty percent or more of their income through fishery, agriculture, or agriculturally related work twelve months prior to filing their application for migrant child care.[76] However, there is no explicitly written relation between the dependency within the definition of "migrant agricultural family" and the "dependency" written within two of the priorities of enrollment for the California Migrant Child Care program. These priorities are that:

- *The family has qualified as a migrant agricultural worker family within the past five years and is currently dependent for its income on agricultural employment, but is currently settled near agricultural areas.*
- *The family resides in a rural agricultural area and is dependent upon seasonal agricultural work.*[77]

There is no citation to clarify of whether the "dependencies" written in the priorities refer to the income dependency in the definition of migrant child care. The priorities of enrollment do not give a percentage range of the gross total income for migrant agricultural families that can be considered "dependent." There is no explanation within the Section 8231(b) that discusses whether a migrant agricultural family making fifty percent of their gross income from agriculturally related work would have a lower priority compared to a family who makes eighty percent of their gross income from agriculturally related work.[78] These priorities must be clarified so applicants and migrant agricultural families can understand the range of incomes.

Policy Recommendations

California's agricultural industry is reliant on the services of migrant agricultural workers. The immediate goal of this article is to remove barriers

that are found within the California Migrant Child Care Program (CMIG). The main barrier discussed was the necessity of clarification regarding the priorities of enrollment for CMIG. Migrant families often work long hours and on weekends. There must be a clear and outlined process so these unique families so that they completely understand how they can qualify for CMIG. The first proposal is to clarify the distinction between the “relocation” eligibility requirements and the priorities of enrollment for the CMIG. *The Commission* reported that migrant families must move every twelve months to be eligible for the program. However, upon further clarification, the twelve-month movement requirement is used to qualify as the first- priority of enrollment for the program. A migrant must move every year to fall within the first-priority of enrollment, not eligibility. Migrant families can still be eligible for the program even if they do not move every twelve months. *The Blue Ribbon Commission* published a report (hereinafter known as *The Report*) that misconstrued this distinction, demonstrating the lack of clarity within the statutes governing CMIG.

The second proposal is to redefine and clarify the priorities of enrollment for CMIG. Section 8231(b) describes the priorities of enrollment for CMIG.[79] The statute currently does not contain any citation to clarify if the “dependencies” written in the four listed priorities refer to the income dependency in the definition of migrant child care. The statute does not define “dependency.” The “dependency” mentioned within the priorities of enrollment do not give a percentage range of the gross total income for migrant agricultural families nor does it cite to any definition of “dependent.”

In addition, there is no explanation within the Section 8231(b) that discusses whether a migrant agricultural family making fifty percent of their gross income from agriculturally related work would have a lower priority in comparison to a family who makes eighty percent of their gross income from agriculturally related work.[80] These priorities must be clarified so migrant agricultural families can understand if they qualify for the program.

The third proposal is to refine or eliminate the priority of:

- *Eligibility and priority for services for the federally funded Migrant Child Development Program shall be in accordance with the applicable federal regulations.*[81]

Eliminate the reference to the Federal Based Migrant Program because federal requirements no longer apply to migrant center based programs. There are no federal dollars used to fund migrant center based programs. This proposed change will provide clarification of the regulations to ensure consistency and compliance.

The benefit of amending these regulations is to ensure that the regulations are clear and consistent with statutory requirements by deleting sections that are no longer applicable to agencies providing child care and development services on behalf of the California Department of Education.

Conclusion

Migrant families are essential workers who contribute substantially to our society. California must ensure that these families are provided resources to thrive and sustain their livability. Child care is an important resource for migrant agricultural families and to their children. The statutes and regulations that regulate the priorities of enrollment and

definition of the “migrant agricultural family” for the California Migrant Child Care program must be clarified. This would ensure consistency so migrant families fully understand whether they meet the priorities within the program and whether they constitute as a migrant agricultural family for the program. These programs and services are put in place to help serve families, but ultimately provide the greatest benefit to the children. Taking into consideration their circumstances and lifestyle, these programs would work towards an equal opportunity for quality child care and development. These dedicated programs can provide children and families a nurturing and quality platform to further build upon.



[1] Employment Development Department for the State of California, Migrant and Seasonal Outreach Program, Jobs and Training (July 27, 2020, 3:54 PM), https://www.edd.ca.gov/Jobs_and_Training/Migrant_and_Seasonal_Farm_Worker_Outreach_Program.htm

[2] 1 Cal. Ed. Code § 8208 (2019)

[3] *Id.* § 8208(i)(1-9)

[4] *Id.* § 8208(j)

[5] *Id.*

[6] *Id.*

[7] *Id.* § 8208(i)(1-9)

[8] 56 Cal. Jur. 3d Schools § 260 (2020)

[9] *Id.*

[10] *Id.* at 2

[11] *Id.* at 2

[12] *Id.* at 2

[13] 1 Cal. Ed. Code § 8230 (2017)

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] 1 Cal. Ed. Code § 8232 (1980)

[18] *Id.* § 8232(b)(2)

[19] *Id.* § 8232(b)(3)

[20] *Id.* § 8232 (b)(1)

[21] *Id.* § 8232(c)

[22] 1 Cal. Ed. Code § 8240 (2017)

[23] *Id.*

[24] *Id.* § 8240(g)

[25] 1 Cal. Ed. Code § 8230 (1980)

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] 1 Cal. Ed. Code § 8231(a) (1980)

[30] *Id.* § 8231(a)

- [31] 1 Cal. Ed. Code § 8263 (1980)
- [32] 1 Cal. Ed. Code § 8232 (1980)
- [33] *Id.*
- [34] *Id.*
- [35] 1 Cal. Ed. Code § 8230 (b) (1980)
- [36] 1 Cal. Ed. Code § 8227.8 (2020)
- [37] *Id.*
- [38] 1 Cal. Ed. Code § 8230 (1980)
- [39] *Id.*
- [40] *Id.*
- [41] 1 Cal. Ed. Code § 8200 (2016)
- [42] 1 Cal. Ed. Code § 8201(b) (2017)
- [43] 1 Cal. Ed. Code § 8231(a) (1980)
- [44] 1 Cal. Ed. Code § 8227 (2017)
- [45] *Id.* § 8227(a)
- [46] *Id.* § 8227(c)
- [47] *Id.* § 8227(c)(1)
- [48] *Id.* § 8227(c)(2)
- [49] *Id.* § 8227(c)(3)
- [50] *Id.* § 8227(e)(2)
- [51] *Id.*
- [52] *Id.*
- [53] Blue Ribbon Commission on Early Childhood Education, CA Assembly, Final Report April 2019, The CA Assembly Blue Ribbon Commission on Early Childhood Education Final Report (2019).
- [54] *Id.* at 5.
- [55] *Id.*
- [56] *Id.*
- [57] *Id.*
- [58] *Id.*
- [59] *Id.*
- [60] *Id.*
- [61] *Id.* at 14
- [62] *Id.* at 15
- [63] *Id.*
- [64] *Id.*
- [65] *Id.* at 16
- [66] *Id.*
- [67] *Id.* at 42
- [68] *Id.*
- [69] 1 Cal. Ed. Code § 8231(a) (1980)
- [70] 1 Cal. Ed. Code § 8231(b) (1980)
- [71] 2012 California Regulation Text 294346: The State Superintendent of Public Instruction decided not to proceed with the amendment recommended and withdrew this action from further consideration. The federal criteria within the regulation is no longer relevant and won't help the applicant understand the criteria.
- [72] Blue Ribbon Commission on Early Childhood Education, CA Assembly, Final Report April 2019, The CA Assembly Blue Ribbon Commission on Early Childhood Education Final Report (2019).
- [73] Telephone Interview with Jannie Perez, Child Care Services Manager, Stanislaus County Office of Education (Jul. 24, 2020).
- [74] *Id.*
- [75] *Id.*
- [76] 1 Cal. Ed. Code § 8231(a) (1980)
- [77] 1 Cal. Ed. Code § 8231(b) (1980)
- [78] *Id.*
- [79] *Id.*
- [80] *Id.*
- [81] *Id.*