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Executive Director
California Alternative
Payment Program
Association



1555 River Park Drive Ste 202 Sacramento, CA 95815 ~ Phone: 916-567-6797 ~ Fax: 916-567-6790

VIA ELECTRONIC MAIL: dstrain@cde.ca.gov

February 9, 2007

Ms. Debra Strain, Regulations Coordinator
Legal Division
California Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814

Re: Alternative Payment Programs- Child Care and Development Programs

Dear Ms. Strain:

On behalf of the 71 member agencies that comprise the California Alternative Payment Program Association (CAPPA), I would like to take this opportunity to make comments on the proposed set of regulations regarding Alternative Payment Programs (APP's). While CAPPA believes that overall the regulations being promulgated do meet the intent of the FY 2006-07 Budget Act Language we do have some comments for your consideration.

Section 18054: Determination of Reimbursable Amount

(C) Alternative Payment type programs shall be reimbursed for an audited claim that is the least of the following:

(1) The maximum reimbursable amount as stated in the annual child development contract; or

(2) The amount earned, which is reimbursable expenditures of:

(A) direct payments to providers, which includes family fees for certified children and interest earned on advanced contract funds; and interest earned on advanced contract funds; and

(B) actual administrative and support costs **directly related** to child care services provided, which combined cannot exceed the allowable percentage of the total contract amount.

CAPPA Comments: In accordance with Administrative Procedures Act CAPPA believes that the language above does not meet the standard of clarity. When you look at (2) and (A) and (B) together, it says that APP earnings are composed of (A) direct provider payments and (B) "actual administrative and support costs directly related to child care services provided..." Many APP agencies use an indirect cost rate for centralized administrative costs while one person may interpret centralized costs paid through an indirect cost rate as "directly related," it is possible that other individuals would interpret

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“directly related” and not including such indirect costs. CAPPED would like to suggest that CDE consider a more clear definition of “directly related,” in order to not have conflicting interpretations in the future.

Section 18068: Attendance and Expenditure Reports

(4) Amount and sources of all revenues other than advanced contract funds for the current reporting period and year to date ~~total; and; restricted and unrestricted income shall be reported as follows:~~

(A) restricted income expended during the contract period shall be reported as “restricted”; restricted income that is not expended during the contract period remains restricted and shall be considered “deferred revenue”;

CAPPED Comments: In accordance with the Administrative Procedures Act CAPPED’s believes that the language above does not meet the standard of clarity. In our opinion this language does not tell agencies how, and when, to report restricted “deferred income.” Because this language does not tell agencies what to do with the deferred income, some agencies may add it to other restricted income and report it in the wrong year. CAPPED also has concerns that this definition is unclear as to what part of total expenditures relating to unrestricted income is to be reported as a part of total expenditures.

Finally, CAPPED supports the promulgation of APP administrative and supportive services regulations but CAPPED has a concern that there are two separate issues being promulgated in this regulations package. While we fully believe that organizations receiving funds from multiple funding sources should account for it correctly the language included in this package pertaining to the reporting of restricted and unrestricted income is not related to the administrative and supportive services regulations needed to clarify FY 2006-07 Budget Act Language and therefore should be reconsidered in another regulations package.

Thank you in advance for your consideration of our input. We greatly appreciate the opportunity to work with the Department in a collaborative manner. If you have any questions, please don’t hesitate to contact the CAPPED office at 916-567-6797.

Warm Regards,

Denyne M. Kowalewski
Executive Director, CAPPED

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