SENATE OFFICE OF OVERSIGHT AND OUTCOMES

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Disincentives Hamper Child Care Fraud Efforts

SACRAMENTO—A new report finds that the state Department of Education's strategy for detecting fraud in its part of the $1.4 billion CalWORKs child care program relies on a fragmented system that gives officials and contractors little incentive to investigate wrongdoing or recover money that was improperly paid out.

The Senate Office of Oversight and Outcomes examined fraud controls in the Department of Education's part of CalWORKs child care, which subsidizes care for current or recent aid recipients. The program is meant to assure that clients with jobs or pursuing training are not sidetracked by an inability to find care for their children. The Department of Education contracts with 86 local organizations, many of them non-profits, to determine clients' eligibility and make payments to child care providers.

The oversight office's report found a web of disincentives in which officials do little to monitor fraud or tell contractors how to deal with it. The report, "Catch-22s in Detecting Child Care Fraud: Fragmented System and Illogical Rules Discourage Department of Education from Pursuing Deceptive Practices," can be found here.

Last week, Gov. Arnold Schwarzenegger line-item vetoed funding for one stage of the child care program overseen by the Department of Education. Democratic legislators say they will try to restore the funding after a new governor is inaugurated.

The Department of Education tells its contractors to go to local district attorneys if they uncover evidence of fraud. Yet, many district attorneys decline to accept cases in the part of the CalWORKs child care program overseen by the Department of Education because they do not receive a separate source of revenue to support prosecutions and choose not to use their own money. The result? Cases are not pursued. Likewise, the department's contractors generally do not have access to special investigative units available to county welfare offices to put together fraud cases.

Instead of direct interventions against fraud, the department focuses on annual reviews of its contractors meant to pinpoint administrative errors that can lead to incorrect payments. But the oversight office report states that administrative errors and fraud are not the same and that error-rate studies fail to deal directly with the potential for fraud. "Our experience is that the people who are committing fraud turn in the perfect paperwork," a contractor told the oversight office.

In the meantime, the department has not put in place a regulation defining fraud in the context of the child care program or giving contractors explicit authority to recover improper payments. Education officials fear that identifying improper payments would trigger a federal requirement to return the federal portion of the money, even if the state has never recovered it. But the lack of a regulation leaves child care contractors without the authority to recoup improper payments and leaves them open to challenges when they attempt to do so. Department of Education officials do not track fraud prosecutions or the amount of misspent money identified by contractors.

Lastly, the department has not pursued several regulations that have been proposed in recent years to reduce the risk of fraud. For instance, it decided against mandating random, unannounced visits to child care providers to assure that children were being cared for at the times claimed, citing cost and liability concerns. The lack of regulations in some areas has resulted in variability around the state in what measures local contractors use to detect fraud. The department and its contractors do relatively little to exploit the possibilities of data-matching to identify suspicious cases.

The report makes several recommendations, including reconsidering the use of random, unannounced visits of child care providers and a pilot program to fund investigators. It recommends a concerted state effort to overturn the federal regulation that requires the state to return child care money that was paid improperly, even if the money was never recovered.

The non-partisan Office of Oversight and Outcomes was created in 2008 by Senate President pro Tempore Darrell Steinberg (D-Sacramento) to bolster the Senate's ability to measure government performance.

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