

Winning Beginning NY

an early care and education coalition

Invest in Early Care and Education by Restoring and Expanding Capacity and by Eliminating Barriers To Access

Winning Beginning NY urges New York State to address the crisis in child care. High-quality child care is a critical component of a comprehensive early care and education system. The majority of New York's working parents depend on child care programs to provide education and care to their children from infancy to age five. Even children in Pre-K programs need child care coverage for the remainder of the day. The State should support high-quality child care because it is a foundation for success in school and in life, and because it affords parents an opportunity to work knowing that their children are safe and learning.

A child care subsidy provides low-income parents access to high-quality child care that they could not otherwise afford. However, the State has cut funding for subsidies dramatically, making it impossible for many families to utilize them. Furthermore, subsidies only provide meaningful access if parental co-payments are affordable, and if the process for obtaining a subsidy does not contain so many barriers that parents are reluctant or unable to apply. *Winning Beginning NY* urges New York to:

- begin a correction to support and increase subsidized child care by adding \$140 million;
- develop a state-wide co-payment structure that is affordable for all families across the state;
- cap co-payments for subsidized child care at 10% of a family's annual gross income (until such a structure is developed), and eliminate co-payments for families under the Federal Poverty Level (FPL);
- make the child support requirement voluntary; and
- examine programmatic variations in county eligibility policy with an eye to creating a cohesive statewide system.

Support and Increase Subsidized Child Care

Child care subsidies hit a high of \$929 million in FY2004 – 2005. By FY2006 – 2007, subsidies had dropped to \$858 million. That \$70 million reduction in funding resulted in 14,000 lost subsidized slots, or 14,000 children who lost care. In FY2007 – 2008, New York State increased funding by \$4 million, bringing it up to a total of \$862 million.

The solution to the child care crisis requires a greater investment than the requested \$140 million, but *Winning Beginning NY* believes that this increase—which would restore the 14,000 lost child care slots and add an additional 14,000 subsidized slots—would serve as an initial investment by the State to build capacity.

Develop a Co-payment Structure that is Affordable

Measures such as the self-sufficiency standard have established that the poverty level does not provide enough income to support a family.¹ Nine states (and two territories) have recognized this and do not require families who live below the poverty level to pay a fee for child care.² New York State regulations require that social services districts charge a minimum fee of \$1 to all families.³ Some counties require families under the FPL to pay as much as \$11 per week for child care. New York should support the very lowest income working families by eliminating the fee for child care for families below the poverty level.

Cap Co-Payments at 10% of Household Income

New York is one of only five states that does not have a uniform fee scale across the state.⁴ New York's current parent fee scale is determined by the following formula: the poverty level for the household size is subtracted from overall household income, which results in the family's marginal income. Then, each social services district chooses a multiplier between 10% and 35% to apply against the marginal income. The resulting number is the family's yearly co-payment amount, which is divided by 52 to determine a weekly amount. This formula means that similarly situated families pay dramatically different fees for child care, depending solely upon the county in which they reside; some families may only pay 10% of their marginal income while other families have to pay 35% of their marginal income for child care. For example, a family of three at 200% of poverty (\$34,340/year) in the following counties pays these amounts for child care annually:

¹For a county by county determination of the amount of money it takes for a family to meet the necessities of life (this figure does not include retirement, purchase of major items such as a car, or emergencies, see <http://www.wceca.org/selfsufficiency.htm>

²Those states are Arkansas, California, Hawaii, Indiana, Iowa, Massachusetts, Nebraska, Rhode Island, and South Dakota. Additionally, the Virgin Islands and American Samoa do not charge a fee to families with incomes below the poverty level. Child Care and Development Fund Report of State and Territory Plans FY 2006-2007 Section 3.5.3 Chart 3.5 <http://nccic.acf.hhs.gov/pubs/stateplan2006-07/part3.pdf>

³ 18 NYCRR 415.4(d)(4). New York City recently increased the amount it charges families under poverty to \$3 per week, or \$156 per year.

⁴The other states are Florida, Texas, Virginia and New Jersey. Child Care and Development Fund Report of State and Territory Plans FY 2006-2007 Section 3.5.2 Table 3.5 <http://nccic.acf.hhs.gov/pubs/stateplan2006-07/part3.pdf>

<i>Cost of Child Care</i>	<i>Annually/Weekly</i>
<i>Cattaraugus, Livingston, Otsego & Schoharie</i>	\$1717/\$33
<i>Westchester</i>	\$2575/\$49
<i>Nassau</i>	\$3004/\$58
<i>Allegany, Clinton, Columbia, Essex, Fulton, Ontario, Putnam, Saratoga, Schenectady, Tompkins, and Washington</i>	\$3434/\$66
<i>Albany, Chautauqua, Delaware, Hamilton, Herkimer, Jefferson, Lewis, Madison, Monroe, Rensselaer, Rockland, Schuyler, St. Lawrence, Suffolk, Tioga, Ulster, Warren and Wayne</i>	\$4292/\$83
<i>Dutchess and Steuben</i>	\$5151/\$99
<i>Broome, Cayuga, Chemung, Chenango, Cortland, Eric, Franklin, Genesee, Greene, Montgomery, Niagara, Oneida, Onondaga, Orange, Orleans, Oswego, Seneca, Sullivan, Wyoming and Yates</i>	\$6010/\$116

(Dollar figures in the chart are rounded to the nearest whole number)

Child care is primarily funded with federal dollars; in fact, the local share of child care spending in New York only amounts to approximately 7% of child care funding. Federal child care regulations clearly suggest that co-payments should not exceed 10%.⁵ As a general rule, federally funded benefits for low income families (i.e. food stamps and HEAP) treat similarly situated people in an equitable manner - with uniform eligibility and benefit standards. We would think it grossly unfair if persons with similar financial circumstances received fewer food stamp dollars simply because of the county in which they reside. Child care should also be administered in an equitable manner, providing the same benefits to similarly situated parents, no matter where they live.

Make the Child Support Requirement Voluntary

As a condition of eligibility for a child care subsidy, all applicants and recipients for child care assistance, whether or not they receive family assistance benefits funded under the Temporary Assistance for Needy Families program (TANF), must now obtain a child support order with the assistance of their local child support enforcement unit, or provide proof that they are independently pursuing paternity and support.⁶ This policy is the result of the promulgation of 18 NYCRR 415.3(c). Many detailed rules, which go far beyond the requirements of the regulation, are spelled out in Administrative Directive 05 OCFS ADM-03.

⁵ The federal regulations require sliding fee scales [45 C.F.R.98.42] and require the state agency to explain “how co-payments based on a sliding fee scale are affordable.” 45 C.F.R.98.43(b)(3). The preamble to these regulations states: “... in our view, co-payment scales that require a low-income family to pay no more than ten percent of its income for child care, no matter how many children are in care, will help ensure equal access.” 63 Fed. Reg. 39960.

⁶ The rule was implemented in May 2004 in most upstate counties and in January of 2006 in New York City.

High-quality child care helps low-income families work, helps prepare children for school, and constitutes an investment in child prevention for families at risk. Requiring a parent who may have already concluded that the pursuit of a support order will not result in a positive outcome for her family is not an appropriate condition of eligibility for a child care subsidy. The effect of this requirement on vulnerable families is enormous. Children are best served if child support cooperation is voluntary, for the following reasons:

1. No analysis of the likelihood of obtaining an enforceable order is made prior to imposing this requirement. Custodial parents are required to miss work or school to obtain orders against incarcerated parents, underage parents, and disabled parents even when there is little or no likelihood of getting an enforceable order.
2. The requirement is overbroad, requiring single parents to pursue child support for all children, even those for whom the parent is not requesting child care assistance.
3. The penalty for not obtaining an order is too extreme. A custodial parent who fails to obtain a child support order for ALL the children in the household faces the loss of eligibility for childcare for all children in the household, even if the failure is only for those children not receiving child care assistance.
4. No provision is made to accommodate fathers who voluntarily pay child support and who are engaged in their children's lives. Further, no provision is made for families who would prefer to avoid a Family Court procedure.
5. The add-on is confusing and is treated differently depending on which judge made the support order. Many Family Court Judges do not believe the Family Court Act authorizes them to direct the respondent to reimburse the county for child care paid to the family and thus expressly order that the add-on defray the cost of the custodial parent's child care expense.
6. Domestic violence victims who leave their batterers before the violence escalates to a point where hospitalization or police assistance is necessary, are not granted good cause exemptions because they do not have proof.
7. Immigrant families are discouraged from applying for child care subsidies because if the absent parent is here legally but applying for citizenship, they may jeopardize immigration proceeding in which they may be involved. Any default in the support order could be considered "evidence of bad moral character," resulting in the denial of an immigration related benefit, a petition for citizenship or even deportation.

Examine Programmatic Variations in Policy

In addition to the co-payment variations outlined above, Social Services Districts have chosen other variations in child care administration which makes the system fragmented. For example, some districts have a policy for paying for child care for young children when their parents, who have

night jobs, need child care in order to sleep; other districts have a policy of not doing so. Some districts will pay a higher rate to child care providers who are accredited or when the parent needs child care at untraditional hours or days; others will not. Only 10 of 58 districts pay for transportation to and from providers. Whether a district pays for child care during short breaks in employment is a county option. Even the way that 18 and 19 year olds in the family unit are budgeted is a county option.⁷

⁷ A complete analysis of county by county options can be found at S. Akhtar and S. Antos, *The Expanding Patchwork: Inequity in Child Care Subsidy Eligibility and Administration is greater now than in 2002*, Legal Services Journal, December, 2006, available at: <http://www.empirejustice.org/content.asp?contentid=2025>