



**Australian Government**  
**Department of Education**

Acting Deputy Secretary  
Kylie Crane

Dr Jane Thomson  
Secretary  
Senate Education and Employment Legislation Committee  
Parliament House  
CANBERRA ACT 2600

Dear Dr Thomson

**Inquiry into the Family Assistance Legislation Amendment  
(Building on the Child Care Package) Bill 2019**

I am writing in relation to the Senate Education and Employment Legislation Committee's inquiry into the Family Assistance Legislation Amendment (Building on the Child Care Package) Bill 2019 (the Bill). Thank you for the opportunity to make a submission to the Committee's inquiry.

The Australian Government implemented the Child Care Package (the Package) on 2 July 2018. The Package ensures more financial support is targeted to the families who work the most and earn the least. The Government is investing record funding of \$8.6 billion in 2019–20 into child care to provide more support for families. This investment will increase over the next few years to around \$10 billion a year. The Government has paid subsidies to more than 1.1 million families to support the child care needs of 1.6 million children since 2 July 2018.

The development and implementation of the Package was informed by significant consultation over a number of years. This included consultations held in the context of a Productivity Commission Inquiry and Regulation Impact Assessment, and additional targeted consultation with federal, state and territory government agencies, child care peak organisations, child care providers and services and families.

Following implementation of the Package, the Government has continued to listen to feedback from families and the child care sector on aspects of the Package that have worked well, their concerns and what could be improved.

The main purpose of the Bill is to address feedback in relation to some aspects of the operation of the Package. Several changes address unintended consequences and reduce regulatory burden for families and child care providers. The Bill also includes clarifying and corrective amendments.

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Specifically the Bill will:

- extend the timeframe for ceasing enrolments due to non-attendance from eight to 14 weeks, to reduce regulatory burden on families and child care providers (particularly where children only attend school holiday care)
- remove the 50 per cent limit on the number of children child care providers can certify for Additional Child Care Subsidy (ACCS) (child wellbeing), to allow providers to better meet the needs of children at risk of serious abuse or neglect
- create a Minister's rule making power to enable specified third party payments to be used in combination with Child Care Subsidy (CCS), to reduce or eliminate gap fees for vulnerable and disadvantaged families
- create a Minister's rule making power to allow subsidy to be paid in limited circumstances, where children do not attend care at the start or end of an enrolment, to ensure parents are not unfairly disadvantaged
- integrate In Home Care (IHC) into the primary legislation, as it currently resides in the *Child Care Subsidy Minister's Rules 2017* (Minister's Rules)
- make a number of minor clarifications and corrections.

#### Eight Week Enrolment Ceasing Rule

Families are required to have an active enrolment with an approved child care provider to access CCS. Enrolments currently cease where children do not physically attend care for eight continuous weeks. While this was intended to ensure enrolments are accurate and current, particularly following extended periods of non-attendance, eight weeks is too short a timeframe in some circumstances.

For example, children who attend the same service in each school holiday period regularly have periods of around 10 weeks' non-attendance due to the length of school terms. This means some providers and families have to re-establish enrolments several times throughout the year.

Extending the eight week timeframe to 14 weeks will reduce unnecessary regulatory burden for both providers and families.

#### Fifty Per Cent ACCS (child wellbeing) Limitation

The Bill removes the 50 per cent limit on the number of ACCS (child wellbeing) certificates that can be in effect at any one time at a service. This current process of applying for a higher limit has contributed to unintended regulatory burden for many providers.

Removing this limit, while retaining the option for the Secretary to impose a percentage limit on a service in response to compliance concerns, will enhance access to ACCS (child wellbeing) and reduce barriers to vulnerable children accessing child care.

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Data on the number of children being supported by ACCS (child wellbeing) shows that more children are being supported by this payment in comparison to the number of children who were supported by the corresponding payment under the previous child care arrangements. Data from the March quarter 2018 shows 8,530 children were in receipt of Special Child Care Benefit (at risk), while the March quarter 2019 shows 12,510 children were in receipt of ACCS (child wellbeing). While figures are not directly comparable due to changed policy settings, this shows ACCS is achieving its goal of supporting vulnerable and disadvantaged children.

#### Absence Days

Families can access CCS on days where their child was booked into care and they were charged for the session, but the child did not attend, for example, because they were sick. The legislation currently prevents absences from attracting subsidy before a child's first, and after their last, physical attendance at a service. This is intended to address past sharp practices by some providers, however, it unfairly impacts families financially where children are absent in these circumstances for legitimate reasons.

Including a new Minister's Rule making power to prescribe circumstances in which families can access subsidy will provide an appropriate level of flexibility to avoid unintended impacts on families.

#### Third Party Payments

CCS is calculated on the fees parents are actually required to pay, after taking into account any third party contributions to those fees (for example, by a state/territory government). This ensures CCS recipients always make a co-contribution to their child care fees.

While the co-contribution is a core element of the CCS and an effective and appropriate policy for most families, this requirement has unintended consequences in some circumstances, particularly where it presents a barrier to vulnerable and disadvantaged children attending early childhood education and care.

The Bill includes a new Minister's Rule making power to list certain third party payments that will not be taken into account in the CCS/ACCS calculation. This will enable targeted cohorts to have some or all of their co-contribution amount covered by the specified third party payment. Where the combined amount of CCS/ACCS and the third party payment would otherwise exceed the fee charged, CCS/ACCS entitlement will be reduced to avoid an unintended windfall to the child care provider or family.

#### In Home Care

In Home Care is a child care type that was revised following the outcome of the Nanny Pilot Programme and the former IHC program reviews. The reviews were completed after the amendments to the primary legislation for the CCS were passed, so the authority for IHC was established through the Minister's Rules.

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The Bill integrates IHC into the primary legislation alongside other care types.

Clarifications and Corrections

The Bill also includes proposed clarifications and corrections to existing provisions to bring clarity to the policy intent and address unintended consequences. For example, under the *Education and Care Services National Law* (National Law – the state and territory licencing regime for operating child care services), approved providers may, upon request, have their provider or service approval voluntarily suspended for a defined period of time. This suspension of approval allows the provider to cease operating one or more of its child care services for a period of time without being in breach of the requirements for approval under the National Law. These types of voluntary suspensions are commonly granted so that providers may carry out building improvements or other capital works on their premises. The amendment will allow providers to voluntarily suspend their CCS approval without breaching the requirements for approval under Family Assistance Law.

The department will undertake further consultation on the development of the new Minister’s and Secretary’s Rules with the child care sector, in particular in relation to absences and third party payments (subject to the passage of the Bill).

The department considers that the proposed amendments will make important and welcome refinements to the operation of the Package.

Yours sincerely

Kylie Crane

30 September 2019