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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO HUMAN SERVICES - QUALITY FAMILY CHILD CARE ACT

Introduced By: Senators Goodwin, Jabour, Pichardo, Crowley, and Ruggerio

Date Introduced: March 27, 2013

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 40 of the General Laws entitled "HUMAN SERVICES" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 6.6

4 QUALITY FAMILY CHILD CARE ACT

5 **40-6.6-1. Short title.** – This chapter shall be known and may be cited as the “Rhode
6 Island Quality Family Child Care Act of 2013.”

7 **40-6.6-2. Definitions.** – As used in this chapter, the following terms shall have the
8 meanings set forth herein, unless the context in which such terms are used clearly indicates to the
9 contrary:

10 (1) “CCAP” means "Child Care Assistance Program" the program administered by the
11 department of human services that provides financial assistance to families for child care.

12 (2) “CCAP family child care provider” means an individual who:

13 (i) Participates in CCAP as a department of human services CCAP approved provider;

14 and

15 (ii) Is either licensed by the department of children, youth and families to provide child
16 care services in the provider’s own home, or license exempt but approved by the department of
17 human services to participate in CCAP.

18 (3) “Provider organization” means an organization that includes CCAP family child care
19 providers and has as one of its purposes the representation of CCAP family child care providers

1 in their relations with the state.

2 (4) “Provider representative” or “representative” means a provider organization that is
3 certified as the exclusive negotiating representative of CCAP family child care providers as
4 provided in section 40-6.6-9.

5 (5) "Director" means the director of the department of administration.

6 **40-6.6-3. Child Care Assistance Program Parent Advisory Council.** – (a) There is
7 established a Child Care Assistance Program Parent Advisory Council. The council shall consist
8 of seven (7) members, six (6) of whom shall be the parents or guardians of children who
9 participate or have participated in CCAP within the two (2) years previous to being appointed to
10 the advisory council. The director of the department of human services or his or her designee
11 shall serve on the council and act as its chair. A majority of members of the council shall
12 constitute a quorum for the transaction of any business.

13 (b) The council members shall be appointed for three (3) year terms. Two (2) shall be
14 appointed by the governor, two (2) by the speaker of the house of representatives, and two (2) by
15 the president of the senate.

16 (c) The council shall advise the governor and the director, or his or her designee, and any
17 provider representative regarding issues relating to the quality, affordability, and accessibility of
18 child care offered through CCAP. In particular, the council shall make recommendations
19 regarding:

20 (1) Strategies for improving quality, affordability, and access to child care for CCAP
21 families; and

22 (2) The structure of the CCAP program, including, but not limited to, the application and
23 renewal process, eligibility rules and standards, and family co-payment levels.

24 **40-6.6-4. Right of CCAP family child care providers to choose provider**
25 **representative; subjects of negotiation.** – (a) CCAP family child care providers may, in
26 accordance with the procedures set forth in section 40-6.6-9, choose a provider organization to be
27 their provider representative and to negotiate with the director, or his or her designee, over the
28 terms and conditions of CCAP family child care providers’ participation in CCAP, including, but
29 not limited to: (1) Expanding training and professional development opportunities; (2) Improving
30 the recruitment and retention of qualified CCAP family child care providers; (3) Reimbursement
31 rates and other economic matters; (4) Benefits; (5) Payment procedures; and (6) A grievance
32 resolution process.

33 (b) Notwithstanding the above, all matters within the scope of the department of children,
34 youth and families (DCYF) child care licensing regulations and the DCYF's regulatory authority

1 over child care licensing shall be excluded from and not subject to negotiations and/or the
2 collective bargaining process as recognized in this section. DCYF's authority to initiate licensing
3 action pertaining to family child care providers shall be exclusively governed by provisions in
4 section 42-72.1-6 and chapter 42-35.

5 (c) Notwithstanding the above, CCAP family child care providers must first be qualified
6 as CCAP family child care providers by the department of human services and must operate in
7 conformance with the relevant sections of 42-12 of the general laws and regulations promulgated
8 by the department.

9 (d) The director shall work in consultation with the secretary of the executive office of
10 health and human services as well as the director of the department of human services regarding
11 the terms and conditions of CCAP family child care providers' participation in CCAP including,
12 but not limited to, the terms and conditions in subsection (a) above.

13 **40-6.6-5. Good faith negotiations.** – It shall be the obligation of the director, or his or
14 her designee, to meet and confer in good faith with the provider representative within thirty (30)
15 days after receipt of written notice from the provider representative of the request for a meeting
16 for bargaining purposes. This obligation shall include the duty to cause any agreement resulting
17 from the negotiations to be reduced to a written contract.

18 **40-6.6-6. Unresolved issues; impasse procedures.** – In the event that the provider
19 representative and the director, or his or her designee, are unable to reach an agreement on a
20 contract, or reach an impasse in negotiations, the procedures of sections 36-11-7.1 through 36-11-
21 11 shall be followed.

22 **40-6.6-7. Economic aspects of contract subject to legislative appropriation.** – Any
23 aspects of a contract requiring appropriation by the federal government, the general assembly, or
24 revisions to statutes and/or regulations shall be subject to passage of those state or federal
25 appropriations or statutory and/or regulatory revisions.

26 **40-6.6-8. Duty to represent all CCAP family child care providers fairly; service**
27 **charge and deductions.** – (a) A provider organization certified as the provider representative
28 shall represent all CCAP family child care providers in the state fairly and without discrimination,
29 without regard to whether or not the CCAP family child care providers are members of the
30 provider organization.

31 (b) Each CCAP family child care provider may choose whether to be a member of the
32 provider organization; provided, however, that after a first contract is ratified, the provider
33 representative shall be authorized to collect from non-member CCAP family child care providers
34 a service charge as a contribution toward the negotiation and administration of the written

1 contract. The service charge shall not exceed the regular dues paid by CCAP family child care
2 providers who are members of the provider representative. The state shall deduct the service
3 charge, membership dues, and any voluntary deductions authorized by individual CCAP family
4 child care providers, from the payments to CCAP family child care providers.

5 **40-6.6-9. Certification and decertification of provider organization.** – (a) Petitions to
6 certify a provider organization to serve as the provider representative of CCAP family child care
7 providers, petitions to intervene in such an election, and any other petitions for investigation of
8 controversies as to representation may be filed with and acted upon by the labor relations board in
9 accordance with the provisions of Chapter 7 of Title 28 and the board’s rules and regulations;
10 provided that any valid petition as to whether CCAP family child care providers wish to certify or
11 decertify a provider representative shall be resolved by a secret ballot election among CCAP
12 family child care providers, for which the purpose the board may designate a neutral third party to
13 conduct said secret ballot election.

14 (b) The only appropriate unit shall consist of all CCAP family child care providers in the
15 state.

16 (c) The cost of any certification election held under this section will be split equally
17 among all the provider organizations that appear on the ballot.

18 **40-6.6-10. Unfair practices.** – It shall be unlawful for the state to do any of the acts
19 made unlawful under section 28-7-13. It shall be unlawful for the provider representative to do
20 any of the acts made unlawful under section 28-7-13.1. Any alleged violation of this provision
21 may be filed with the labor relations board as an unfair labor practice and considered and ruled
22 upon in accordance with chapter 7 of title 28 and the board’s rules and regulations.

23 **40-6.6-11. CCAP family child care providers not state employees.** – Nothing in this
24 chapter shall be construed to make CCAP family child care providers employees of the state for
25 any purpose, including for the purposes of eligibility for the state employee pension program or
26 state employee health benefits.

27 **40-6.6-12. Right of families to select, direct, and terminate CCAP family child care**
28 **providers.** – Nothing in this chapter shall be construed to alter the rights of families to select,
29 direct, and terminate the services of CCAP family child care providers.

30 **40-6.6-13. Strikes not authorized.** – CCAP family child care providers shall not engage
31 in any strike or other collective cessation of the delivery of child care services.

32 **40-6.6-14. State action exemption.** – The state action exemption to the application of
33 state and federal antitrust laws is applicable to the activities of CCAP family child care providers
34 and their provider representative authorized under this chapter.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HUMAN SERVICES - QUALITY FAMILY CHILD CARE ACT

- 1 This act would establish the Quality Family Child Care Act with a parent advisory
- 2 council and it would provide for the rights of Child Care Assistance Program providers,
- 3 certification of provider organizations and conflict resolution with provider organizations.
- 4 This act would take effect upon passage.

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