New York is Poised to Enact Three Bills that will Create a More Equitable Child Care Assistance Program

The Challenge

New York has dramatically expanded income eligibility for its Child Care Assistance Program (CCAP) over the last three years, making hundreds of thousands of families newly eligible. **Unfortunately, there remain many families within eligible income levels that still cannot access assistance due to outdated and inequitable rules and bureaucratic obstacles.** These New York families are still facing child care costs on their own that easily exceed $18,000 a year for one child in care.

The Opportunity: Bills Passed by the Legislature, Ready for the Governor's Signature

During the 2024 Legislative session, the New York State Legislature passed three bills that, with the Governor's signature, would make thousands of New York families—among them many low-income working families – eligible for child care assistance for the first time. The bills would:

- End New York's Rule of Tying Child Care Assistance to Parents' Exact Hours of Work — A.8878-A (Hevesi)/S.8152-A (Brisport) Under existing CCAP rules, families may use child care assistance only during the exact hours that parents work—making it nearly impossible for parents working fluctuating schedules in the gig economy, service industry, or retail to utilize child care assistance, leaving them to shoulder child care costs on their own.
- Eliminate Minimum Earnings Requirements for CCAP Eligibility — A.1303-A (Clark)/ S.4924-A (Ramos) Currently, parents and caretakers can be ineligible for child care assistance if they earn too little. Under this rule, many small business owners who are barely paying themselves—including many child care providers—are ineligible for child care assistance. Also barred: parents hustling in the gig economy who may not bring in earnings that average out to minimum wage. These families are already ensuring the challenges and stress that comes with earning low pay; it is unconscionable to deny them access to child care assistance because they are earning so little. New York City estimates that up to 10,000 families could benefit from eliminating this requirement.
- Enact Statewide Presumptive Eligibility — A.4099-A (Clark)/S.4667-A (Brouk) This legislation would allow families quick access to child care assistance while waiting for application processing to be completed so parents do not lose job opportunities, and children experience more continuity of care. A recently enacted federal rule (Improving Child Care Access, Affordability, and the Child Care and Development Fund (CCDF)), clarifies that federal funds can be used to cover the presumptive eligibility period *and* encourages states to implement this policy broadly.

There have been misconceptions about these policies. Here are the facts:

☑ **Fact: There is no need for a new budget allocation to cover any costs associated with these policies.** New York CCAP is a $1.8 billion program (in FY 2025) with funds drawn from federal Child Care Development Funds, federal Temporary and Needy Families (TANF) funds, state general funds, and county funds. CCAP is a block granted program, administered by New York counties. Each year, counties are provided a finite block grant amount to spend on CCAP, with some counties adding additional dollars. Baseline eligibility rules are set by the federal government under CCDF. The NYS Office of Children and Family Services (OCFS) then sets some additional eligibility rules within the parameters of CCDF, and the counties do the same. There is no line out in the state budget for costs associated with each eligibility rule, and New York has adjusted eligibility rules in the past without allocating new funds. **Accordingly, any costs associated with these three bills do not need a new spending allocation.**

☑ **Fact: In the short term, New York has ample funds to cover any additional costs associated with these policies; longer term, the state will need to invest more in CCAP whether or not these bills are passed.**

As of May 2024, two-thirds (66%) of the way through the federal fiscal year, New York had spent just 52% of the FFY's CCAP allocations. This suggests that the state still has room to serve more families, especially the predominantly low-income families that would be impacted by the passage of these three bills. OCFS has not allocated all of the funds to the counties, holding some in reserve to release later based on uptake and spending. OCFS will release more funds to counties if/when a county's allocation runs low, as explained in a recent ADM.

Longer term, without new public investment, New York will likely face a shortfall in CCAP funds because it has not allocated enough funds to cover all children who are eligible for child care assistance now—not even close. For context: More than 600,000 New York children under age 13 reside in working families with income less than 200% of FPL. Add to that about 350,000 children who have become newly eligible for child care over the last two years after the state increased income eligibility to 300% of FPL, then 85% of SMI. According to OCFS's latest numbers, approximately 124,000 children are currently receiving child care assistance. (This number does not include all school age children, some of whom receive care through other afterschool programs.)

Accordingly, if New York allows funds to run short, leaders will have to make hard decisions about how to prioritize which eligible families get priority and how much additional funding is needed to extend assistance to income eligible families. **What is clear: it should not be an option now, or in the future, to deny thousands of families child care assistance because their income is too low or their work hours too erratic. It would be an unacceptably inequitable way to accommodate a (potential) shortfall of funding.**

☑ **Fact: Not all families currently receiving part-time assistance will seek full-time CCAP should New York end its current rule allowing child care assistance to cover only the hours a parent works.**

Many New York children who receive child care assistance, or who would be eligible if the "decoupling" law was passed, do not need full time child care because their child is enrolled in publicly-funded pre--K, which covers part of a traditional work day. More than 155,000 3 and 4-year olds were enrolled in publicly-funded pre-K during the 2022-23 school year. Many of these school-aged children utilize child care assistance—with center-based school-aged capacity exceeding 329,000 in 2023. Further, just because a family has access to full-time child care assistance does not mean they will take up that option.

☑ **Fact: Presumptive eligibility will lead to fewer disruptions for families, children, and child care providers, not more.**

This bill would require New York State to implement a simple procedure for counties to make a quick, preliminary determination about a family's eligibility for child care assistance so that the parent(s) can get to work without delay, and the child can be enrolled in child care assistance while the counties are gathering and processing the family's full application. The experience of other states that have implemented this policy, along with Monroe County in New York is that very few families deemed eligible for child care assistance based on the preliminary determination are ultimately found ineligible. This is not surprising because the eligibility requirements for CCAP are not overly complex; most determinations can be made with very little paperwork. The paperwork that follows almost always confirms the initial determination.

Some New York counties have very high CCAP denial rates—most due to families' failure to submit all of the required paperwork. A family found presumptively eligible for CCAP, with the child placed in child care, is likely to be highly incentivized to finish the CCAP paperwork. Further, these high denial rates are indicative of another problem that needs attention: the CCAP application process is overly complicated. This persistent problem is not a good reason to forgo presumptive eligibility.