

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



August 17, 2001

ALL-COUNTY INFORMATION NOTICE I-69-01

TO: COUNTY WELFARE DIRECTORS
ALL CalWORKs PROGRAM SPECIALISTS
ALL COUNTY FOOD STAMP COORDINATORS
ALL COUNTY SFIS COORDINATORS
ALL COUNTY SIU CHIEFS

SUBJECT: SHEYKO v. SAENZ**REASON FOR THIS TRANSMITTAL**

- State Law Change
- Federal Law or Regulation Change
- Court order
- Clarification Requested by One or More Counties
- Initiated by CDSS

The purpose of this letter is to provide county welfare departments (CWDs) with a copy of the Sheyko v. Saenz court order (Judgment). The Sheyko v. Saenz court order (Judgment) affects requirements related to the Statewide Fingerprint Imaging System in the California Work Opportunities and Responsibilities to Kids (CalWORKs) and Food Stamp programs. The Department will appeal one of the provisions in the Judgment (provision number 1.c.). An All County Letter that will provide CWDs with specific implementation instructions is expected to be released in early October. CWDs shall not take any action at this time, except that they may begin flagging cases that could be affected by the court order (Judgment).

CONTACTS

If you have any questions regarding CalWORKs program related issues in this letter, please contact Elizabeth Allred, at (916) 657-3350 or CALNET 437-3350. If you have any Food Stamp program related questions, please call William Mullinax at (916) 657-3418 or CALNET 453-5208. If you have any Fraud program related questions, please contact Lesley Bell at (916) 263-5700 or CALNET at 435-5700.

Sincerely,

Original signed by
Bruce Wagstaff on
August 17, 2001

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

c: CWDA
CSAC

Attachment

1 GRACE GALLIGHER, State Bar No. 105587
2 COALITION OF CALIFORNIA WELFARE RIGHTS ORGANIZATIONS
3 1901 Alhambra Boulevard, Second Floor
4 Sacramento, California 95816
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ENDORSED
AUG 10 2001
By M. FRANCO, Deputy

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8 Attorney at Law
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14 and COALITION FOR HUMANE IMMIGRANT RIGHTS OF LOS ANGELES

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22 Attorneys for Plaintiff/Petitioner LYUDMILA SHEYKO only

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SACRAMENTO

LYUDMILA SHEYKO, KATHIE KING
and COALITION FOR HUMANE
IMMIGRANT RIGHTS OF LOS
ANGELES,

Plaintiffs/Petitioners,

v.

RITA SAENZ, Director, Department of
Social Services, et al.,

Defendants/Respondents.

CASE NO. 00CS01130

PROPOSED JUDGMENT

1 This cause came on regularly for hearing on December 22, 2000 in Department 41 of the
2 above entitled court, the Honorable Ronald Robie presiding. Petitioners appeared by their attorneys
3 Stephen E. Goldberg and Grace A. Calligher. Respondents appeared by their attorney Barbara
4 Haukedalen. Documentary evidence and written argument having been submitted by both parties,
5 the cause having been argued and submitted for decision and the court having caused to be made
6 and filed herein its written ruling, and the court having directed that judgment and a writ of mandate
7 should issue in the cause;

8 IT IS ORDERED, ADJUDGED, AND DECREED that

9 1. A writ of mandate shall issue commanding respondents and each of them and their
10 agents, servants, employees, and representatives, and all persons acting in concert or participating
11 with them:

12 a. To refrain from denying or terminating benefits for the entire case of an applicant
13 or recipient of CalWORKs and/or Food Stamps for a failure to comply with the Statewide
14 Fingerprint Imaging System (SFIS) requirements as opposed to a refusal to comply with these
15 requirements.

16 b. To refrain from requiring compliance with the SFIS requirements by parents and
17 caretaker relatives who are not themselves recipients of but were applicants on or before July 21,
18 1996, for AFDC (Aid to Families with Dependent Children, now CalWORKs) and/or Food Stamp
19 benefits for children with continuing disability who are currently receiving benefits.

20 c. To refrain from requiring that parents and caretaker relatives who are not applying
21 for or receiving either CalWORKs benefits and/or Food Stamps for themselves be finger imaged and
22 photo imaged as a condition of eligibility for benefits for other members of the family when another
23 parent or caretaker relative in the family is applying for or receiving CalWORKs benefits and/or
24 Food Stamps for themselves and has been finger imaged and photo imaged.

25 2. To provide by U.S. mail, facsimile or by other means to county welfare
26 departments within 5 working days of the date of service of notice of entry of judgment of this writ
27 of mandate a copy of the Order and Judgment of the Court herein, and to issue written instructions
28 to county welfare departments within 60 calendar days of the date of service of notice of entry of

1 judgment of the writ of mandate informing counties of the requirements of the judgment and the
2 writ of mandate.

3 a. To submit regulations to the Office of Administrative Law in accordance with the
4 California Administrative Procedure Act which modify existing regulations to conform with the
5 judgment and the writ of mandate.

6 ~~The court hereby issues a permanent injunction requiring respondents and each of them
7 and their agents, servants, employees, and representatives, and all persons acting in concert or
8 participating with them:~~

9 a. To refrain from paying or terminating benefits for the entire case of an applicant
10 or recipient of CalWORKs and/or Food Stamps for a failure to comply with the Statewide
11 Fingerprint Imaging System (SFIS) requirements as opposed to a refusal to comply with these
12 requirements.

13 b. To refrain from requiring compliance with the SFIS requirements by parents and
14 caretaker relatives who are not themselves recipients of but were applicants on or before July 31,
15 1996, for AFDC (Aid to Families with Dependent Children, now CalWORKs) and/or Food Stamp
16 benefits for children with continuing eligibility who are currently receiving benefits.

17 c. To refrain from requiring that parents and caretaker relatives who are not applying
18 for or receiving either CalWORKs benefits and/or Food Stamps for themselves be finger imaged and
19 photo imaged as a condition of eligibility for benefits for other members of the family when another
20 parent or caretaker relative in the family is applying for or receiving CalWORKs benefits and/or
21 Food Stamps for themselves and has been finger imaged and photo imaged.

22 d. To provide by U.S. mail, facsimile or by other means to county welfare
23 departments within 5 working days of the date of service of notice of entry of judgment of this writ
24 of mandate a copy of the Order and Judgment of the Court herein and to issue written instructions
25 to county welfare departments within 60 calendar days of the date of service of notice of entry of
26 judgment of the writ of mandate informing counties of the requirements of the judgment and the
27 writ of mandate.

28

~~To submit regulations to the Office of Administrative Law in accordance with the
California Administrative Procedure Act which modify existing regulations to conform with the
judgment and the writ of mandate.~~

RONALD B. ROBIE

3 This Court hereby grants declaratory relief as stated in the court ruling of April 14,
2001, attached and incorporated as if fully set forth herein.

4 In all other respects, the Petition for Writ of Mandate and complaint for declaratory and
injunctive relief are denied.

IT IS SO ORDERED.

Dated: Aug 16 2001

RONALD B. ROBIE
Honorable Ronald B. Robie
Judge of the Superior Court

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

DATE & TIME: December 22, 2000
JUDGE : Ronald E. Robie
RECORDER : B. Broughton

DEPT. NO: 41
CLERK : M. Franco
BAILIFF : L. O'Connor

00050130 LYUDMILA SHEYKO, ET AL. VS. RITA SAENZ, ET AL.

MOTION FILED BY: PETITIONER

ATTORNEYS PRESENT:

RAUKEDALEN, BARBARA
GOLDBERG, STEPHEN

ATTORNEY FOR RESPONDENT
ATTORNEY FOR PETITIONER

NATURE OF PROCEEDING: HEARING ON WRIT OF MANDATE

TENTATIVE RULING

Petitioners challenge certain of respondents' regulations, policies and procedures concerning the CalWORKS and Food Stamps programs and seek a writ of mandate pursuant to Code of Civil Procedure section 1085, and declaratory and injunctive relief.

In the first cause of action, petitioners allege that by adopting and implementing regulations, policies and procedures which require photo imaging of all adults, including adult applicants for or recipients of Food Stamps and CalWORKS benefits, as a condition precedent for eligible applicants or recipients of such aid to receive benefits, respondents violate Welfare and Institutions Code sections 10500, 10830 and Government Code section 11342.2.

In the second cause of action, petitioners allege that by adopting and implementing policies and practices which require adults who are ineligible for Food Stamps to be fingerprint imaged and photo imaged before eligible applicants or recipients of Food Stamps receive benefits, respondents violate Welfare and Institutions Code sections 10500, 10830 and Government Code section 11342.2 as well as DSS' Food Stamp regulations.

In the third cause of action, petitioners allege that by adopting and implementing regulations, policies and practices which require ineligible CalWORKS adults to be fingerprint imaged and photo imaged so that eligible CalWORKS applicants or recipients will receive benefits, respondents violate Welfare and Institutions Code sections 10500, 10830 and Government Code section 11342.2.

In the fourth cause of action, petitioners allege that defendants adopted and implemented regulations, policies and practices which mandate

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

DATE & TIME: December 12, 2000
JUDGE : Ronald B. Robie
RECORDER : B. Broughess

DEPT. NO: 41
CLERK : M. Franco
SHERIFF : L. O'Connor

00050130 LYUDMILA SHEYKO, ET AL. VS. RITA SAENZ, ET AL.

MOTION FILED BY: PETITIONER

that in every situation in which an adult family member, who lives in the house with eligible CALWORKS and Food Stamps applicants or recipients, refused or fails to be fingerprint imaged or photo imaged, counties MUST impose a sanction and withhold benefits from each and every eligible applicant or recipient in the household. Petitioners allege that these regulations, policies and practices exceed the scope of the statute, [Welfare and Institutions Code section 10820] and as such violate Welfare and Institutions Code sections 10500, 10830 and Government Code section 11342.3.

The petition and complaint are granted in part and denied in part as follows, and declaratory relief shall issue consistent with the following ruling:

The court concludes that the phrase "applicant for ... aid" in Welfare and Institutions Code section 10820, subdivision (b)(1) is reasonably and logically construed to include a person who applies for aid on behalf of a dependent, minor or otherwise incompetent recipient. A minor child does not request aid on his or her own. Therefore the request must be filed by a parent or caretaker. The person who requests the aid is an applicant, as well as the child for whom a request for aid is made is an applicant. "To apply" is to make a formal request; so is the same even though the recipient is someone else.

The court does not expand this construction to other persons in the home who are not recipients of aid. Other persons in the home do not have to be fingerprinted and photographed unless they are recipients of aid or applicants for aid under the interpretation the court has approved. If respondents wish additional protection against potential fraud, they should address their concerns to the legislature.

The court concludes that requiring photoimaging of persons who are subject to fingerprint imaging requirements does not violate the law. The court finds that the photoimaging required by the respondents' challenged regulations, policies and procedures is reasonably related to the fingerprint imaging procedures and their purposes and does not violate the rights of applicants for or recipients of aid.

Finally, the court concludes that the "full family" sanction for failure or refusal of an applicant for aid, as interpreted by the court

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

DATE & TIME: December 22, 2000
JUDGE : Ronald B. Robie
RECORDER : B. Broughton

DEPT. NO: 61
CLERK : M. Franco
BAILIFF : L. O'Connor

00C501130 LYUDMILA SHEYKO, ET AL. VS. RITA SAENZ, ET AL.

MOTION FILED BY: PETITIONER

or recipient of aid, to be fingerprint and photo imaged does not violate the law. The person who applies for aid on behalf of the household or minor or otherwise incompetent person vouches for the accuracy of the information provided. It is appropriate and necessary that respondents be able to detect fraud in the application process. Imposing the "full family" sanction is an important means of insuring the effectiveness and integrity of the system. Respondent properly exercised its discretion by adopting regulations, policies and procedures requiring the "full family" sanction. Further, respondents have made a distinction between failure to comply and refusal to comply, by allowing a period of time during which a failure to comply can be cured but not allowing a cure period in the case of a refusal.

A judgment shall issue consistent with this ruling.

COURT RULING

This matter argued by counsel and submitted.

The Court affirmed the tentative ruling in part as stated more fully on the record and ordered a briefing schedule on limited issues as follows: Petitioners' papers are due by Tuesday, January 30, 2001 and the respondents' reply is due by Friday, February 23, 2001, thereafter the matter will be considered under submission.

RULING ON SUBMITTED MATTER

The court, having received and considered petitioners' supplemental points and authorities in support of petition for writ of mandate, filed January 30, 2001, and respondents' supplemental memoranda in opposition to the petition, filed on February 23, 2001, and March 5, 2001, now makes its ruling as follows:

The tentative ruling is modified as follows:

The next to the last paragraph of the tentative ruling, beginning with "Finally, the court concludes" and ending with "in the case of a refusal", is deleted.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

DATE & TIME: December 22, 2000
JUDGE : Ronald E. Kohle
RECORDER : F. Broughton

DEPT. NO: 41
CLERK : M. Franco
SALARY : L. O'Connor

000001150 LYUDMILA SHEVKO, ET AL. VS. RITA SAENZ, ET AL.

MOTION FILED BY: PETITIONER

The last paragraph of the tentative ruling, beginning with "A judgment" and ending with "this ruling", is deleted.

The following language is added to the tentative ruling:

The court concludes that a "full family" sanction for refusal of an applicant for aid, as interpreted by the Board, or recipient of aid, to be fingerprinted and photo imaged does not violate the law. The person who applies for aid on behalf of the household or minor or otherwise incompetent person vouches for the accuracy of the information provided. It is appropriate and necessary that respondents be able to detect fraud in the application process. Imposing the "full family" sanction is an important means of ensuring the effectiveness and integrity of the system. However, respondents' regulations and policies do not make an adequate distinction between a failure to comply and a refusal to comply. Respondents, in their most recent trial, state that the Manual of Policies and Procedures, section 40-105.3 (a regulation which allows a "cure" period for a failure to cooperate but not for a refusal to cooperate), may apply but is not expressly applicable or inapplicable to SFIS. However, respondents have adopted regulations and instructions to counties which are expressly and specifically applicable to SFIS and which do not distinguish between a failure and a refusal to comply with the fingerprint and photo imaging requirements. See MMP sections 40-026.3, 40-105.31, and 40-171.322k; All County Letter 00-32, Question and Answer 13; and All County Letter 99-79, attachments 1 and 3. As respondents have adopted regulations and policies which allow a "full family" sanction for a failure to comply, they are unauthorized in that Welfare and Institutions Code section 10830 provides that "ineligibility may extend to an entire case of any person who refuses to provide fingerprint images" but does not authorize that sanction for a mere failure to comply.

Finally, the court finds that the fingerprint and photo imaging requirements may not be applied to persons who were "applicants". As that term is construed by this court, prior to the effective date of section 10830 but are not themselves "recipients". The two terms are not interchangeable. If the requirements were extended to persons who applied prior to the effective date of the statute but are not "recipients," the statute would have an impermissible retroactive

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

DATE & TIME: December 22, 2000
JUDGE : Ronald E. Robie
RECORDER : B. Broughton

DEPT. NO: 41
CLERK : M. Franco
SALIEFF : L. O'Connor

00CS01130 LYUDMILA SHEYKO, ET AL. VS. RITA SAENZ, ET AL.

MOTION FILED BY: PETITIONER

effect. The statute would affect the consequences of past actions: by applying in the past, a person would now be subject to being fingerprinted and photographed. The Legislature has not clearly expressed an intention that the requirements apply to persons who applied in the past but are not themselves "recipients". If the legislature wishes to make past "applicants" subject to fingerprint and photo imaging requirements, it should do so by legislation explicitly imposing such requirements.

Petitioners shall prepare a judgment and writ of mandate consistent with this ruling.

DATED: April 16, 2001

RONALD E. ROBIE

JUDGE OF THE SUPERIOR COURT

BOOK: DEPT 41 SACRAMENTO SUPERIOR and MUNICIPAL COURTS
PAGE:
DATE: December 22, 2000 BY: _____ DEPUTY
CASE NO: 00CS01130
CASE TITLE: LYUDMILA SHEYKO, ET AL. VS. RITA SAENZ, ET AL.
DISTRIB: