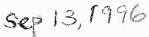
DEPARTMENT OF SOCIAL SERVICES 744 P Street, Sacramento, CA 95814





TO: ALL COUNTY WELFARE DIRECTORS



_		
[] State Law Change	

REASON FOR THIS TRANSMITTAL.

[] Federal Law or Regulation Change Court Order or Settlement

Agreement

[] Clarification Requested by One or More Counties [X] Initiated by CDSSe

SUBJECT: ALTERNATIVE MODELS OF PERSONAL ASSISTANCE PROJECT

Welfare and Institutions Code (WIC) section 10850 REFERENCE:

This All-County Information Notice advises Counties that the Regents of the University of California, for and on behalf of its, Los Angeles campus, is completing a research project called "Alternative Modes of Personal Assistance Services." This study is authorized and funded by the United States Department of Health and Human Services. The study pertains to the In-Home Supportive Services/Personal Care Services Program (IHSS/PCSP).

The project is being conducted by Albert E. Benjamin, Ph.D., who is a Professor for the School of Social Welfare at the Regents of the University of California. Los Angeles campus. Dr. Benjamin will act as the Principal Investigator for the "Alternative Models of Personal Assistance Services" study. The data obtained as the result of this research will remain confidential, and the identity of the participants will not be disclosed. You may be contacted by Dr. Benjamin requesting county participation and assistance. We have advised Dr. Benjamin, in writing, that they may have access to recipient and provider information. However, this information must be protected by confidentiality requirements as provided under WIC section 10850 (see attached informational copy).

All County Welfare Directors Page Two

Please contact me at (916) 657-2652 or Sherland Jordan, Chief, Adult Services Management Branch, at (916) 229-4586 if you have any questions regarding the contents of this letter.

KAROL Z. WIDEMON

Deputy Director

Adult Services Division

Attachment

RECORDS

Section 10850.	Confidentiality; rules and regulations; violations; disclosure of confidential information regarding criminal act.	Section 10850.5.	Disclosure of information to housing au- thorities; notice; opportunity to re- view information supplied; forms.
10850.3,	ment agencies; arrest warrant; request; notice; exclusion.	10850.9.	Emergency disclosures; elderly or dis- abled clients; electaration of federal approval; duration of privilege.
10850.3.	Disclosure of information to law enforce-	10851.	approva; turation of privilege. Records; public social services; establishment and maintenance; retention; destruction.

\$ 10850. Confidentiality: rules and regulations; violations; disclosure of confidential information regarding criminal act

- (a) Except as otherwise provided in this section, all applications and records concerning any individual made or kept by any public officer or agency in connection with the administration of any provision of this code relating to any form of public social services for which grants-in-aid are received by this state from the United States government shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of that program, or any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such program. The disclosure of any information which identifies by name or address any applicant for or recipient of these grants-in-aid to any committee or legislative body is prohibited, except as provided in subdivision (b).
- (b) Except as otherwise provided in this section, no person shall publish or disclose or permit or cause to be published or disclosed any list of persons receiving public social services. Any county welfare department in this state may release lists of applicants for, or recipients of, public social services, to any other county welfare department or the State Department of Social Services, and these lists or any other records shall be released when requested by any county welfare department or the State Department of Social Services. These lists or other records shall only be used for purposes directly connected with the administration of public social services. Except for those purposes, no person shall publi h, disclose, or use or permit or cause to be published, disclosed, or used any confidential information pertaining to an applicant or recipient.

Any county welfare department and the State Department of Social Services shall provide any governmental entity which is authorized by law to conduct an audit or similar activity in connection with the administration of public social services, including any commit or legislative body so authorized. with access to any public social service applications and records described in subdivision (a) to the extent of the authorization. Those committees, legislative bodies and other entities may only request or use these records for the purpose of investigating the administration of public social services, and shall not disclose the identity of any applicant or recipient except in the case of a criminal or civil produing conducted in connection with the administration of public social services.

However, this section shall not prohibit the furnishing of this information to other public agencies to the extent required for verifying eligibility or for other purposes directly connected with the administration of public social services, or to county superintendents of schools or superintendents of school districts only as necessary for the administration of federally assisted programs providing assistance in cash or inkind or services directly to individuals on the basis of need. Any person knowingly and intentionally violating the provisions of this subdivision is guilty of a misdemeanor,

(c) The State Department of Social Services may make rules and regulations governing the custody, use, and preservation of all records, papers, files, and communications pertaining to the administration of the laws relating to public social services under their jurisdiction. The rules and regulations shall be hinding on all departments, officials and employees of the state, or of any political subdivision of the state and may provide for giving information to or exchanging information with agencies, public or political subdivisions of the state, and may provide for giving information to or exchanging information with agencies, public or private, which are engaged in planning, providing or securing social services for or in behalf of recipients or applicants; and for making case rd rds available for research purposes, provided, that the research will not result in the disclosure of the identity of applicants for or recipients of public secial services.

Additions or changes indicated by underline; deletions by asterisks * * *

- (d) Any person, including every public officer and employee, who knowingly secures or possesses, other than in the course of official duty, an official list or a list compiled from official sources, published or disclosed in violation of this section, of persons who have applied for or who have been granted any form of public social services for which state or federal funds are made available to the counties is guilty of a
- (e) This section shall not be construed to prohibit an employ of a county welfare dep ent from disclosing confidential information concerning a public social services applicant or recipient to a state or local law enforcement agency investigating or gathering information regarding a criminal act committed in a welfare department office, a criminal act against any county or state welfare worker, or any criminal act witnessed by any county or state welfare worker while involved in the administration of public social services at any location. Further, this section shall not be construed to prohibit an employee of a county welfare department from disclosing confidential information concerning a public social is rvices applicant or recipient to a state or local law enforcement agency investigating or gathering information regarding a criminal act intentionally committed by the applicant or recipient against thy off-duty county or state welfare worker in retaliation for an act performed in the course of the welfare worker's duty when the person committing the offense knows or reasonably should know that the victim is a state or county welfare worker. These criminal acts shall include onlythose which are in violation of state or local law. Disclosure of confidential information pursuant to this subdivision shall be limited to the applicant's or recipient's name, physical description, and address.
- (f) The provisions of this section shall be operative only to the extent permitted by federal law and shall not apply to, but exclude, Chapter 7 (commencing with Section 14000) of this division, entitled "Basic Health Care", and for which a grant-in-aid is received by the state under Title XIX of the Social Security

(Amended by Stats.1994, c. 591 (S.B.1116), § 1; Stats.1995, c. 766 (S. .726), § 42.)

or 5 to assess to be upon the assessment Historical and Statutory Notes

1994 Legislation :

.... The 1994 amendment rewrote subd. (f) and made nonsubstantive changes throughout.

1995 Legislation

The 1995 amendment deleted subtl. (c) and redesignated former subds. (d) to (g) as subdet (e) to (f). Prior to deletion, former subti. (c) had read:

"(c) The State Department of Social Services shall inform the Department of Motor Vehicles of the names. birth dates, and address: of all applicants or recipients of aid to the blind. The Department of Motor Vehicles, upon receipt of this information, shall inform the State Department of Secial Services of any applicant or recipient of aid to the blind who hold a valid California driver's license."

Library References

California Practice Guide: Civil Trials and Evidence. Wegner, Fairbank, Epstein & Chernow, see Guide's Table of Statutes for chapter paragraph number references to paragraphs discus ing this section

Notes of Decisions

13.c --- Juvenile proceedings

Release of juvenile court records is governed by statute permitting inspection pursuant to juvenile court order and not by statute granting confidentiality to records relating

to individuals' receipt of services for which federal funds are provided. In re Keisha T. (App. 8 Dist. 1995) 44 Cal.Rptr.2d 822, 98 Cal.App.4th 220, modified.

§ 10850.3. Disclosure of information to law enforcement agencies; arrest warrant; request; notice: exclusion

> Text of ection operative until director executes declaration that specified federal approval has been obtained.

- (a) Notwithstanding Section 10850, an authorized employee of a county welfare department may disclose confidential information concerning a public social services applicant or recipient to any law enforcement agency where a warrant has been issued for the arrest of the applicant or recipient for the commission of a felony or a misdemeanor. Information that may be released pursuant to this section shall be limited to the name, address, telephone number, birthdate, social security number, and physical description, of the applicant for, or recipient of, public social services.
- (b) A county welfare department may release the information specified byethis section to any law enforcement agency only upon a written request from the agency specifying that a warrant of arrest for the commission of a felony or misdemeaner has been issued as to the applicant or recipient. This request may be made only by the head of the law enforcement agency, or by an employee of the agency so authorized and identified by name and title by the head of the agency in writing to the county welfare department. A county welfare department shall notify all applicants of public social service: that release

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of confidential information from their records will not be protected if a felony or misdemeanor arrest warrant is issued against the applicant. A recipient of public social services shall be notified, at the time of renewal of his or her application for public social services, that a release of confidential information can be made if a felony or misdemeanor arrest warrant is issued against the recipient.

- (c) This section shall not be construed to authorize the release of a general list identifying individuals applying for or receiving public social services.
- (d) The provisions of this section shall be o rative only to the extent permitted by federal law. The section shall not apply to, but shall exclude the Medi-Cal program, established pursuant to Chapter 7 (commen ng with Section 14000) and following.
- (e) This section shall remain in effect only until the director executes a declaration, that shall be retained by theil director, stating that any federal approv required for implementation of Section 108503, as a dediduring the 1995 portion of the 1995-96 Regular Session of the Legislature, has been obtained, and as of that date is repealed.

(Amended by Sta s.1994, c. 591 (S.B.1116), § 2; Stats.1995, c. 227 (S.B.634), § 2.)

Repeal of section by own terms upon director's declaration regarding fed approval

For text of section operative upon director's execution of declaration that specified federal rul has been obtained, see Welfare and Institutions Code & 10850.5, post

Historical and Statutory Notes

1995 Legislation

Sections 1 and 5 of Stats. 1995, c. 227 (S.B.634), provide:

"Section 1. The Legislature finds and declares all of the following:

"(a)(1) A county department of social services is presently permitted to release certain confidential information regarding applicants for, or recipients of, public social services to a law enforcement agency when that law enforcement agency makes a written request to the county department of social services advising that there is a misdemeanor or felony warrant for the arrest of that applicant or recipient.

"(2) Occasionally, in course of determining or renewing eligibility for services, a county department of social services will learn that a mlad eaner or felopy arre t warrant exists for a particular applicant or recipient

"(3) However, the county department of social services is not authorized to share the known lecation of such an individual with law enforcement in the absence of a penifle request from a law enforcement agency.

"(4) It is in the public interest that the whereabouts of these individuals he reported to the appropriate law enfercement agency.

"(b) Therefore, it is the intent of the Legislature to allow a county department of social services to report the known location of applicants for, or recipients of, public social services for whom felony or misdemeanor arrest warrant: have been issued to the appropriate law enforcement agency.

"Sec. 5. The State Director of Social Services shall seek any fed ral approval necessary to implement Section 10850.3 of the Welfare and Institutions Code, as contained in Section 3 of this act."

\$ 10850.3. Disclosure of information to law enforcement agencies; arrest warrant; request; notice: conditions for disclosure; exclusion

> Text of section operative upon director's execution of declaration that specified federal approval has been obtained.

- (a) Notwithstanding Section 10850, an authorized employee of a county welfare department may disclose confidential information concerning a public social services applicanti or recipient to any law enforcement agency where a warrant has been issued for the arrest of the applicant or recipient for the commission of a felony or a misdemeanor. Information that may be released pursuant to this section shall be limited to thei name, address or physical whereabouts, telephone number, birthdate, social security number, and physical description, of the applicant for, or recipient of, public social services.
- (b) A county welfare department may release the information specified by this section to any law enforcement agency only upon a written request from the agency specifying that a warrant of arrest for the commission of a felony or misdemeanor has been issued as to the applicant or recipient. This request may be made only by the head of the law enforcement agency or by an employee of the agency so authorized and identified by name and title by the head of the agency, in writing, to the county welfare department. A county welfare department shall notify all applicants of public social services that release of confidential information from their records will not be protected if an arrest warrant is issued against the recipient.
- (c) This section shall not be construed to authorize the release of a general list identifying individuals applying for, or receiving, public social services.

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(d)(1) If in any of the circumstances specified in paragraph (2), a county welfare department learns that a misdemeaner or felony arrest warrant has been issued for that individual, the county welfare

that applicant or recipient to the appropriate law enforcement agency.

J. Dunilla

(2) The disclosure of information authorized by paragraph (1) may be made only if knowledge of the outstanding warrant comes to the attention of the county welfare department as a result of an unsolicited! disclosure in one of the following circumstances:

department may report the physical whereabouts, and other information authorized by this section, of

- (A) It is received in the process of obtaining or reviewing an applic tion for public social a rvices.
- (B) It is received through a regular investigation for the purposes of determining or reviewing eligibility for public social services. E. S. Walter
- (C) It is received from an independent source.
- (e) The provisions of this section shall be operative only to the extent permitted by federal law. The section shall not apply to, but shall exclude the Medi-Cal program, established pursuant to Chapter 7 (commencing with Section 14000) and following.
- (f) This section hall become effective may if the director x utes a declaration, that shall be relined by the director, stating that any federal approval required for the implement tion of this section has been Stats 1995, c. 227 (S.B.634), § 3.H

(Added by Stats.1995, c. 227 (S.B.634), § 3.)1

For text of secti n ope we until director executes declaration that specified federal approval has been obtained, see Welfare and Institutions Code § 10850.8, ante.

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Historical and Statutory Notes

Legislative findings, declarations and intent of Stats. 1995, c. 227, see Historical and Statutory Notes under Welfare and Institutions Code, ante.

§ 10850.5. Disclosure of information to housing authorities; notice; opportunity to review information supplied; forms

A county welfare department may, without the need to provide written documentation that consent has been obtained from a client, provide information to a housing authority created pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code, in order to aid the housing authority in the administration of that part. This section may be implemented either through an automated data exchange system or through a manual system. Any housing authority receiving and maintaining information pursuant to this section shall comply with confidentiality and privacy laws cone rning the collection, maintenance, and dissemination of information, as contained in Section 10850 and the federal Privacy Act of 1974, contained in Section 652a of Title 5 of the United States Code. The county welfare department shall provide a written form to each person about whom information is to be provided to a housing authority pursuant to this section. The form shall notify the person that the information exchanges may occur. A copy of the form may be retained by the person and the county welfare department. The form shall specify the purpose for which the information has been solicited, the entities to which the information may be provided, the uses that may be made of the information, as set forth in Section 552a(e)(3) of Title 5 of the United States Code, and the right of the client to request review of the information that has been provided to the authority. The county welfare department may provide only information that is necessary to determine eligibility for housing authority programs or services for which the client has applied or which he or she is receiving. The county welfare department shall allow the client to review the information it has provided tola housing authority, upon request of the client. This section is not intended to eliminate any other legal obligation of the county welfare department to obtain consent from a client before releasing information to another entity.

(Added by Stats.1993, c. 985 (S.B.931), § 2.)

§ 10850.9. Emergency disclosures; elderly or disabled clients; declaration of federal approval; duration of privilege

(a) Notwithstanding Section 10850, an authorized employee of a county social services department may disclose the name and residential address of elderly or disabled clients to police, fire, paramedical personnel, or other designated emergency services personnel, in the event of a public safety emergency that necessitates the possible evacuation of the area in which those elderly or disabled clients reside. Those public safety emergencies in lude, but are not limited to, fires, earthquakes, gar leake bomb

Additions or changes indicated by underline; deletions by asterisks ... * *

sea , and other natural or human made occurrences that jeopardize the immediate physical safety of county residents.

- (b) The Director of Social Services shall seek any federal approval necessary to implement subdivision
- (c) Subdivision (a) shall be implemented only if the director executes a deci if n, that hall be retained by the director, stating that any federal approval required for implementation of subdivision (a) has been obtained, and only for the duration of that approval.

(Added by Stats.1995, c. 121 (A.B.788), § 2.)

Implementation

Implementation of the section is contingent on federal approval. See subd. (c).

Historical and Statutory Notes

1995 Legislation

Section 1 of Stata.1995, c. 121 (A.B.788), provides: "The Legislature finds and declares all of the following:

(a) Currently, police officers, firefighters, paramedi and other emergency services personnel lose valuable time in determining who in a building needs assistance in

the event of a fire, earthquake, gas leak, bomb scare, or other public safety emergency n saltating evacuation of that building or immediate area. (b) In these situations, emergency ervices personnel

must go door-to-door or rely upon the information of neighbors and bystanders.

"(c) The adult protective services and the In-Home Supportive Services (IIISS) programs, under the administration of county welfare departments, keep ou intresidential addresses of those elderly and disabled individuals receiving adult protective services or IHSS.

"(d) County If departments could readily provide emergency services personnel with the residential addry ses of elderly or disabled individuals who would need assistance in the event of a public safety emergency that may require evacuation during the course of the emergen-

"(e) It is the intent of the Legi lature, thereforel to allow county welfare denartments to arraide the current residential addresses of elderly and di abled individuals to emergency services personnel during a public safety emergency that may require evacuation of a building or ares of the county."

§ 10851. Records; public social services; establishment and maintenance; retention; destruction

- (a) Each county shall establish and maintain a cue e record for each public social services case and shall retain the record for a period of three years. The three-year retention period begins on the date on which public social services were last provided. The records shall be tained beyond the three-year retention period when the county is notified by the department or the State Department of Health Services, whichever has jurisdiction over the records, to retain records for a longer period of time. The department or the State Department of Health Services, whichever has jurisdiction over the records, shall instruct a county to retain records beyond the three year period when the retention is necessary to a pending civil or criminal action.
- (b) Notwithstanding subdivision (a), the board of supervisors of any county may authorize the destruction of the case parrative portions of the case record that are over three years old in any case file, active or inactive, only after audit by the department or the State Department of Health Services, whichever has jurisdiction over the record. In addition, the board may also authorize the destruction of those documents contained in the case file which are over three years old and are no longer necessary to document the recipient's continued eligibility for public social services. However, if a civil or criminal action against a person based on alleged unlawful application for, or receipt of, public social services, is commenced before the expiration of the three-year period no portion of the case record of the person shall be destroyed until the action is terminated.
- (c) Each county shall maintain fiscal, statistical, and other * * * ords necessary for maintaining accountability and meeting reporting requirements relating to the administration of public social services. These fiscal and reporting records shall be retained for a minimum period of three years from the date of submis ion of the final expenditure report and shall be retained beyond the three-year period when audit findings have not been resolved.
- (d) The retention requirements imposed by subdivisions (a) and (c) of this section are for public social services purposes only and are superseded to the extent another statute requires retention of the same records for a longer period for a different purpose.
- (e) Netwithstanding subdivision (a), or any other statutory requirement concerning the retention of public social services records, a child protective services agency may, but need not, retain a child abuse report which has been determined to be an unfounded report, as defined in Section 11165.12 of the Penal Code.
- (f) Notwithstanding any other provision of law, a county may retain a case record established pursuant to subdivision (a), and retained pursuant to subdivisions (a) and (c), using either electronic or other

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alternative storage technologies. Permissible alternative storage technologies, hall includ, but not b mited to photography, microphotography, electronically recorded video images on magnetic aurfa electronic data-processing systems, optical disk storage, or any other electronic medium which des not

it additions, deletions, or changes to the original document and meets the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records whichever applies. A duplicate copy of any record reproduced shall be deemed an original.

(Arnended by Stats.1991, c. 1061 (S.B.849), § 10.)

PERSONNEL.

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\$ 10906. Training courses; attendanc ; leaves of absence

Cross References

State dep ent of health services, see Health id in the services Bafety Code 1 100300 et acq. personal and the fact that the second section

Chapter 71

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HEARINGSI

10950. Opportunity for hearing; priorities; recipient defined.

1 10950. Opportunity for hearing; priorities; recipient defined Opportunity for hearing; priorities; recipient defined

"If any applicant for or recipient of public social services is dissatisfied with any action of the county department relating to his of her application for or receipt of public social services, if his or her application is not acted upon with reasonable promptness, or if any person who desires to apply for public social services is refused the opportunity to submit a signed application therefor, and is dissatisfied with that refusal, he or she shall, in person or through an authorized representative, without the necessity of filing a claim with the board of supervisors, upon filing a request with the State Department of Social Services or the State Department of Health Services, whichever department administers the public social service, be accorded an opportunity fo la state hearing.

Priority in setting and deciding cases shall be given in those cases in which aid is not being provided pending the outcome of the hearing. This priority shall not be construed to permit or excuse the failure to render decisions within the time allowed under federal and state law.

Notwithstanding any other provision of this code, there is no right to a state hearing when either (1) state or federal law requires automatic grant adjustments for classes of recipients unless the reason for an individual request is incorrect grant computation, or (2) the sole issue is a federal or state law requiring an automatic change in services or medical assistance which adversely affects some or all pients.

For the purposes of administering health care services and medical assistance, the State Director of Health Services shall have those powers and duties conferred on the Director of Social Services by this chapter to conduct state hearings in order to secure approval of a state plan under * * * applicable federal law.

The State Director of Health Services may contract with the State Department (Social Services for the provisions of state hearings in accordance with this chapter.

As used in this chapter, "recipient" means an applicant for or recipient of public social services except aid exclusively financed by county funds or aid under Article 1 (commencing with Section 12000) to Article 6 (commencing with Section 12250), Inclusive, of Chapter 3 of Part 3, and under Article 8 (commencing with Section 12350) of Chapter 3 * * of Part 3 * of those activities conducted under Chapter 6 (commencing with Section 18350) of Part 6.1

(Amended by Stats.1991, c. 820 (S.B.475), § 6.)

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