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**DEPARTMENT OF SOCIAL SERVICES**

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ARNOLD SCHWARZENEGGER  
GOVERNOR

September 30, 2009

ALL COUNTY LETTER NO. 09-50

TO: ALL COUNTY WELFARE DIRECTORS  
ALL CalWORKs PROGRAM SPECIALISTS  
ALL COUNTY CHILD CARE COORDINATORS  
ALL COUNTY REFUGEE COORDINATORS  
ALL COUNTY SPECIAL INVESTIGATIVE UNIT (SIU) COORDINATORS  
ALL COUNTY WELFARE TO WORK COORDINATORS  
ALL FOOD STAMP COORDINATORS  
ALL COUNTY CONSORTIUM PROJECT MANAGERS

SUBJECT: ACCESS TO PUBLIC ASSISTANCE CASE RECORDS

REFERENCE: ALL COUNTY LETTER (ACL) NO. 07-29, ALL COUNTY INFORMATION NOTICE (ACIN) NO. I-33-06, MANUAL OF POLICIES AND PROCEDURES (MPP) SECTIONS 19-005.1, 19-005.2, 19-005.4, 19-006, AND SECTION 22-073.232 (c), WELFARE AND INSTITUTIONS CODE (WIC) SECTIONS 10850.2 AND 11206

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 remind County Welfare Departments (CWDs) of state requirements that CWDs provide clients and their authorized representatives (ARs) unrestricted access to non-privileged or non-confidential information in public assistance case records and to clarify existing law and regulations pertaining to client access to their case files. This All County Letter (ACL) incorporates information previously issued in ACL 07-29, dated August 17, 2007, and is being re-issued along with additional clarification regarding the California Work Opportunity and Responsibility to Kids (CalWORKs) regulations and Welfare and Institutions Code (WIC) Sections 10850.2 and 11206. This letter is intended to address CalWORKs, Food Stamps, General Assistance, and Refugee Cash Assistance cases only. The California Department of Social Services (CDSS) will be issuing clarifying instructions regarding confidentiality in Child Protective Services (CPS) cases and Special Investigative Unit (SIU) files separately from this letter.

The determination of when information is privileged or confidential can be difficult. CWDs are strongly encouraged to consult county counsel prior to denying access to file information on this basis.

According to Manual of Policies and Procedures (MPP) Section 19-005.1, clients shall have access to information that they provided to the CWD, or access to the entire case file excluding privileged or confidential information, if the client requests a state hearing (MPP Section

19-005.4). This regulation seems to limit access to the entire case file absent a request for a state hearing. However, WIC Sections 10850.2 and 11206 state that clients and/or their ARs are allowed unrestricted access to non-privileged or non-confidential information in public assistance case records. This requirement applies to all clients and is not contingent upon a request for a state hearing. Therefore, effective with this letter, CWDs must provide clients and their ARs with unrestricted access to non-privileged or non-confidential information in public assistance case records and may not require the filing of a hearing request to do so. This clarification ensures the client's right to due process is enforced by the CWDs. CDSS will be modifying regulations in order to correctly restate the unrestricted access requirement in WIC Sections 10850.2 and 11206.

In addition, according to MPP Section 19-005.2, ARs who have written authorization from the client are permitted to act on the client's behalf. Therefore, ARs are to be allowed to inspect and receive hardcopies of non-privileged or non-confidential information contained in public assistance case records regardless of whether the client is present.

If the client is only requesting access to a portion of his or her case file, it is permissible to provide only the section that the client is requesting. However, it must be understood that the client has the right to full access of any non-privileged or non-confidential information in the client's public assistance case records, and, that absent such a specifically limited request, the CWD must provide full access. CWDs are also reminded that when a client has requested a hearing, regardless of what portion of the file the client may request, the CWD shall provide the client with any information that supports the claimant's position that is in the file per MPP Section 22-073.232 (c).

#### Privileged/Confidential Information

It is difficult to draw "bright line" rules regarding privileged and confidential information. Certain information must always be provided to the client or their AR, such as client-provided information or client medical records, with a limited exception for mental health records, listed below. Certain information can only be released to the subject of the document or their AR and not other members of the Assistance Unit (AU) or household. These include but are not limited to information regarding domestic abuse, medical history, criminal background, mental health and substance abuse treatment, learning disabilities, and case records of minors who have received services under Minor Consent Medi-Cal. Such information may ONLY be released to the person who is the subject of the document.

There may be situations where medical information may not be directly released to the client or their AR. For example, the client is not entitled to review mental health records when it contains information that the health care provider has indicated could be harmful to the health of the individual if seen by him/her. When this is the case, the client can provide a written authorization allowing inspection or the provision of copies to a designated licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist or licensed clinical social worker.

Privileged or confidential information *may* include information about the client that comes to the CWD from a third party, without the client's permission or knowledge. For example, in a case

containing only one adult or head of household, privileged or confidential information includes, but is not limited to, the whereabouts of an absent parent (provided by a child support agency) or private information concerning the status of children who might have been removed from the home by CPS. Conversely, information contained in the Income Eligibility Verification System (IEVS) is an example of third party information that is considered to be neither privileged nor confidential; consequently, the client should have access to IEVS information.

Other instances of *potentially* privileged, private or confidential information include cases containing information about multiple adults or heads of households. Even routine information provided by one adult to the CWD may be privileged with regard to another adult in the home (or formerly in the home). In addition, according to MPP Section 19-006, privileged information may include, but is not limited to, information protected by the attorney-client privilege or the identity of an informer.

Finally, CWDs are reminded that clients have the right to access any computer records that are part of their case file, on the basis listed above, as set out in ACL 07-29. CWDs are encouraged to establish a policy of how they make case files accessible to claimants, clients or their ARs.

If you have any questions regarding this letter, please contact the following programs.

- CalWORKs Eligibility Bureau (916) 654-1322
- Child Care Programs Bureau (916) 657-2144
- Employment Bureau (916) 654-2137
- Food Stamp Policy Bureau (916) 654-1896
- Fraud Bureau (916) 263-5700
- Refugee Programs Bureau (916) 654-4356

Sincerely,

***Original Document Signed By:***

CHARR LEE METSKER  
Deputy Director  
Welfare to Work Division