



CDSS

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DEPARTMENT OF SOCIAL SERVICES
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GOVERNOR

December 19, 2016

ORD #1015-12

Notification of 15-Day Public Availability
of Changes to Regulations and Supporting
Documents and Information

On May 12, 2016, a public hearing was held to consider the proposed adoption, amendment or repeal of the following regulations:

ITEM #1 – CalWORKs Program: Pregnant Women Only

Pursuant to the provisions of Section 11346.8(c) of the Government Code, the California Department of Social Services (CDSS) has revised the Statement of Reasons and the proposed regulatory language. A copy of the full text of the regulations with the proposed changes indicated is enclosed for your review. Copies of the Final Statement of Reasons and the Updated Informative Digest are also attached for review and comment.

Any person interested may submit written statements or arguments relating to the modified language and documents or information during the public comment period from December 19, 2016, to January 4, 2017. These statements may be submitted to the Office of Regulations Development (ORD) at the address listed below, by e-mail to ord@dss.ca.gov or by fax at (916) 654-3286. In order to be considered, public comments must be received by CDSS on or before 5:00 p.m., January 4, 2017.

California Department of Social Services
Office of Regulations Development
744 P Street, M.S. 8-4-192
Sacramento, CA 95814

Any questions concerning the proposed regulations and documents or information may be directed to Ying Sun, Manager of ORD at (916) 657-2586.

Enclosures

Description of Method Used to Illustrate
Changes to Original Text

In the attached regulations document, the language originally proposed is underlined. Deletions to existing language are shown by strikeout. Revisions made subsequent to public hearing are shown as follows:

Added language double underlined and bolded text

New language added following public hearing.

Deleted language double strikeout and bolded text

~~Language deleted following public hearing.~~

Amend Section 44-211.6 to read:
Post-Hearing: Amend Section 44-211.61 and .633

44-211 SPECIAL NEEDS IN CALWORKS

44-211

.1 through .6 (Continued)

.6 Pregnancy Special Needs

.61 For the purposes of this section, the term "~~third~~ second trimester" is defined as the ~~12th~~ 13th week of the pregnancy which is the beginning of the ~~third~~ fourth month ~~immediately prior to the month of anticipated birth and continuing through the month of birth~~ of the pregnancy.

.62 (Continued)

.63 Eligible Applicants

(SAR) .631 A pregnant woman age 19 or older, with no eligible children who has applied for CalWORKs, is in her ~~third~~ second trimester, and is eligible to receive CalWORKs shall be entitled to receive the pregnancy special need payment from the date of application through the end of the semi-annual period in which the child is expected to be born once required verification has been provided. If the birth of the child is voluntarily reported mid-period, the pregnancy special need payment shall be discontinued at the end of the month prior to the month in which the newborn is added into the AU (see Sections 44-316.312(d)(SAR) and 44-318.15(SAR)).

(SAR) .632 (Continued)

(SAR) .633 A pregnant teen age 18 or younger, with no other eligible children in the AU, ~~who has received a high school diploma or its equivalent~~, and is otherwise eligible, shall receive CalWORKs, and the pregnancy special need payment once required verification has been provided, from the date of application through the end of the semi-annual period in which the child is expected to be born, even if the pregnant teen reaches her 18 birthday prior to the third trimester.

.6334 (Continued)

.64 through .65 (Continued)

Authority cited: Sections 10553, 10554, 10604, 11209, and 11450(f) and (g), Welfare and Institutions Code.

Reference: Sections 11056, 11155.2(a), 11265.1, 11265.2, 11265.3, 11266(a)(2), 11271, 11272, 11273, and 11273(b), 11450(a)(1), (b), (c), and (f), 11450(f)(2)(A)(i), 11450(f)(2)(B), 11450(f)(2)(C), 11450(f)(2)(E)(i), (ii), (iii), (v), and (vi), 11450.5, 11452.018(a), and 11453.2, Welfare and Institutions Code; 45 CFR 206.10(a)(1)(ii), 45 CFR 206.10(a)(8), 45 CFR 233.10(a)(1)(iv), 45 CFR 233.20(a)(2)(v)(A), 45 CFR 234.11, 45 CFR 234.60; and 42 U.S.C.A., Section 606(b).

UPDATED INFORMATIVE DIGEST

These proposed regulations amend specific provisions in the California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) that regulate eligibility for pregnant teens and special needs in the CalWORKs program.

Prior law allowed a pregnant woman with no other eligible child in the home to be eligible for CalWORKs cash aid and \$47 in pregnancy special needs (PSN) payments beginning in the third trimester of her pregnancy. The exception to this rule was when the pregnant woman was also eligible for the Cal-Learn program. The Cal-Learn is a statewide program for pregnant and parenting teens in the CalWORKs program designed to encourage pregnant and parenting teens to graduate from high school or its equivalent, become independent, and form healthy families. A pregnant woman who was eligible for Cal-Learn was also eligible for cash aid and PSN at any time after providing medical verification of her pregnancy and not limited to the last trimester of her pregnancy. A pregnant teen who was age 18 or younger and who had graduated from high school or obtained a high school diploma or its equivalent, would not be eligible for CalWORKS or PSN payments until her third trimester.

Assembly Bill 1640 (Chapter 778, Statutes of 2012) expanded eligibility to pregnant teens age 18 or younger, with no other eligible children in the home, to be eligible for CalWORKs cash aid and \$47 in PSN payments upon verification of pregnancy.

Assembly Bill 1579 (Chapter 632, Statutes of 2014) changed eligibility to pregnant women age 19 or older, with no other eligible children in the home, to be eligible for CalWORKs cash aid and \$47 in PSN payments beginning in the second trimester of pregnancy.

This regulatory action will benefit CalWORKs families who have a pregnant teen age 18 or younger, with no other eligible children in the home, to receive CalWORKs cash aid and \$47 PSN payment, upon verification of pregnancy. It will also allow a pregnant woman age 19 or older, with no other eligible children in the home, to be eligible for CalWORKs cash aid and \$47 in PSN payments beginning in the second trimester of pregnancy if all other conditions of eligibility are met.

These regulations were considered at the public hearing held on May 12, 2016 in Sacramento, California. Written testimony was received during the 45-day comment period.

Upon further review of the regulations and as a result the testimony received, Section 44-211.633 is amended to remove the requirement of a pregnant teen age 18 or younger of having a high school diploma or its equivalent in order to qualify for the PSN and to better comply with Welfare and Institutions Code section 11450(b)(1). Also Section 44-211.61 is amended to clarify when the second trimester of pregnancy begins.

FINAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 44-211.61

Specific Purpose:

This section is being amended to change "third" to "second" trimester and define it as the 12th week of the pregnancy which is the fourth month immediately prior to the month of anticipated birth of a child.

Factual Basis:

This amendment is necessary to define second trimester. Welfare and Institutions Code section 11450(b)(2), as amended by AB 1579 (Chapter 632, Statutes of 2014), specifies that when a family that does not include a needy child qualified for aid, aid shall be paid to a pregnant woman for the month in which the birth is anticipated and for the six-month period prior to the anticipated birth in the amount that would otherwise be paid to one person. Providing this definition will ensure pregnant women receive the allowed benefit consistently throughout the state.

Final Modification:

As a result of further review, this section is amended to clarify when the beginning of the second trimester begins for a pregnant woman. The intent of this modification is to reduce confusion and ensure equitable treatment of participants across the state. This modification is necessary to remain consistent with Section 44-211, which describes pregnancy special needs.

Section 44-211.631 (SAR)

Specific Purpose:

This section is being amended to specify that a pregnant woman age 19 or older with no other eligible children is eligible to apply for CalWORKs and the pregnancy special needs (PSN) payment in her second trimester.

Factual Basis:

This amendment is necessary to ensure pregnant women receive the allowed benefit consistently throughout the state. Welfare and Institutions Code section 11450(b)(2), as amended by AB 1579, specifies that when a family that does not include a needy child

qualified for aid, aid shall be paid to a pregnant woman for the month in which the birth is anticipated and for the six-month period prior to the anticipated birth in the amount that would otherwise be paid to one person.

Section 44-211.633 (SAR)

Specific Purpose:

This section is being adopted to instruct counties that a teenager who is 18 years old or younger, pregnant and has graduated from high school or its equivalent, is eligible to receive the PSN payment and CalWORKs cash aid once verification has been obtained.

Factual Basis:

This adoption is necessary to allow pregnant teens age 18 or younger, with no other eligible children in the home, to receive CalWORKs cash aid and the PSN payment, upon verification of pregnancy. Welfare and Institutions Code section 11450(b)(1), as amended by AB 1579, specifies that when a family that does not include a needy child qualified for aid, aid shall be paid to a pregnant child who is 18 years of age or younger at any time after verification of pregnancy, in the amount that would otherwise be paid to one person.

Final Modification:

As a result of testimony received, this section is modified to remove the requirement of having a high school diploma or its equivalent. The intent of this modification is to better comply with Welfare and Institutions Code section 11450(b)(1), reduce confusion and ensure equitable treatment of participants across the state. This modification is necessary to remain consistent with Section 44-211, which describes pregnancy special needs.

Section 42-211.634 (Renumbered from 42-211.633)

Specific Purpose/Factual Basis:

Section 42-211.633 is being renumbered to 42-211.634 to allow for the adoption of new Section 42-211.633 and maintain the correct numerical sequence.

b) Identification of Documents Upon Which Department Is Relying

AB 1640 (Chapter 778, Statutes of 2012)

AB 1579 (Chapter 632, Statutes of 2014)

c) Local Mandate Statement

These regulations do impose a mandate upon local agencies, but not on school districts. There are no "state-mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs

associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the Government Code.

d) Statement of Alternatives Considered

In developing the regulatory action, CDSS did not consider any other alternatives as there were no other alternatives proposed.

The CDSS has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

e) Statement of Significant Adverse Economic Impact On Business

The CDSS has determined that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on changes to State law that expanded eligibility requirements for pregnant teens age 18 and younger, with no other eligible children in the home, and has graduated from high school or its equivalent, to be eligible for CalWORKs cash aid and \$47 in PSN payments upon verification of pregnancy. State law also expanded to include a pregnant woman age 19 or older, with no other eligible children in the home, may be eligible for CalWORKs cash aid and \$47 in PSN payments beginning in the second trimester of pregnancy.

f) Economic Impact Assessment

In accordance with Government Code section 11346.3(b), the CDSS has made the following assessments regarding the proposed AB 1640 and AB 1579 regulations. The CDSS has made an initial determination that there is no impact on California businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

This analysis is intended to be a tool or baseline to establish that these regulatory measures are the most cost-effective to affected California enterprises and equally effective in implementing the statutory policy or other provision of law.

Creation or Elimination of Jobs Within the State of California

The proposed regulations include changes to the CalWORKs Program by adopting expanded eligibility to pregnant teens age 18 or younger, with no other eligible children in the home, to be eligible for CalWORKs cash aid and \$47 in PSN payments upon verification of pregnancy and changing eligibility to pregnant woman age 19 or older, with no other eligible children in the home, to be eligible for CalWORKs cash aid and \$47 in PSN payments beginning in the second trimester of pregnancy. In addition, the proposed

regulations make technical, conforming changes, such as adding and renumbering of sections and amending cross references as necessary.

The proposed amendments will neither create nor eliminate jobs in the State of California. The justification for this statement is that the proposed regulations fine-tune the existing CalWORKs WTW program. The proposed regulations pertain to applicant and current CalWORKs participants and are mandated by the State of California. Therefore, CDSS has determined that this regulatory proposal will not have an impact on the creation or elimination of jobs in the State of California.

Creation of New or Elimination of Existing Businesses Within the State of California

The proposed regulations include changes to CalWORKs by adopting expanded eligibility to pregnant teens age 18 or younger, with no other eligible children in the home, to be eligible for CalWORKs cash aid and \$47 in PSN payment upon verification of pregnancy and changing eligibility to pregnant woman age 19 or older, with no other eligible children in the home, to be eligible for CalWORKs cash aid and \$47 in PSN payments beginning in the second trimester of pregnancy. In addition, the proposed regulations makes technical, conforming changes, such as adding and renumbering of sections and amending cross references as necessary.

The proposed amendments will neither create nor eliminate existing businesses within the State of California. The justification for this statement is that the proposed regulations fine-tune the existing CalWORKs WTW program. The proposed regulations affect applicant and current CalWORKs participants and are mandated by the State of California. In addition, the proposed regulation amendments regulate only CalWORKs participants, not businesses.

Expansion of Businesses or Elimination of Existing Businesses Within the State of California

The proposed amendments will neither expand nor eliminate businesses in the State of California. The justification for this statement is that the proposed regulations fine-tune the existing CalWORKs WTW program. The proposed regulations affect applicant and current CalWORKs participants and are mandated by the State of California. In addition, the proposed regulation amendments regulate only CalWORKs participants, not businesses.

Benefits of the Regulations

The benefits of the proposed regulation include changes to the CalWORKs program by adopting expanded eligibility to pregnant teens age 18 or younger, with no other eligible children in the home, to be eligible for CalWORKs cash aid and \$47 in PSN payments upon verification of pregnancy and changing eligibility to pregnant women age 19 or older, with no other eligible children in the home, to be eligible for CalWORKs cash aid and \$47 in PSN payments beginning in the second trimester of pregnancy. This regulatory action does not make changes to regulations involving worker safety or the state's environment.

The documents relied upon in proposing this regulatory action are, AB 1640 (Chapter 778, Statutes of 2012) and AB 1579 (Chapter 632, Statutes of 2014).

g) Benefits Anticipated from Regulatory Action

This regulatory action will benefit CalWORKs families who have a pregnant teen age 18 or younger, with no other eligible children in the home, to receive CalWORKs cash aid and \$47 PSN payment, upon verification of pregnancy. Also allow a pregnant woman age 19 or older, with no other eligible children in the home, to be eligible for CalWORKs cash aid and \$47 in PSN payments beginning in the second trimester of pregnancy if all other conditions of eligibility are met.

h) Statement of Specific Technology or Equipment

This regulatory action will not mandate the use of new, specific technologies or equipment.

i) Testimony and Response

These regulations were considered at the public hearing held on May 12, 2016 in Sacramento, California. Written testimony was received during the 45-day comment period from March 25 to May 12, 2016. The comments received and the Department's responses to those comments follow.

Legal Services of Northern California (Stephen Goldberg, Acting Regional Counsel) submitted the following comment:

Section 44-211.633 (SAR)

1. Comment:

AB 1640 (2012) amended Welfare and Institutions Code Section 11450(b) to expand CalWORKs eligibility for pregnant women to women age 18 or younger. Section 11450(b)(1) says a pregnant woman age 18 or under is eligible "When the family does not include a needy child qualified for aid under this chapter..." The Legislative Counsel Digest for AB 1640 confirms that the only conditions for a pregnant woman age 18 or under to be eligible are that she is otherwise eligible and that the CalLearn program is operating. The Legislative Counsel states the bill "... require(s) CalWORKs aid to be paid to a pregnant mother who is 18 years of age or younger at any time after verification of pregnancy, when the Cal-Learn Program is operative, regardless of whether she is eligible for the Cal-Learn Program."

However, proposed Manual of Policy and Procedure Section 44-211.633 states pregnant woman age 18 or under must have graduated high school or equivalent to be eligible. This is much narrower than the statute because it requires pregnant women age 18 or under to have graduated high school or equivalent when the statute does not include that limitation. Requiring high school graduation or equivalent for CalWORKs pregnant woman only eligibility excludes women who would otherwise

be eligible, including, for example, emancipated minors who have not graduated high school and minors who for other reasons are out of their parents' household (for example, women age 18 or under who are homeless or thrown out by their parents). The restriction of pregnant woman age 18 or under must have graduated high school or equivalent to be eligible for Ca1WORKs should be removed from the regulation because it improperly limits Ca1WORKs eligibility in violation of Welfare and Institutions Code Section 11450(b).

Response:

The CDSS thanks the testifier for their comments.

The CDSS agrees that eliminating the requirement of a pregnant teen age 18 or younger, to have received a high school diploma or its equivalent in order to qualify for these services would reduce confusion and endure equitable treatment of participants across the state as allowed in Welfare and Institutions Code section 11450(b). Section 44-211.633 is being revised as a result of this testimony.