

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 1 California Work Opportunity and Responsibility to Kids (CalWORKs) Overpayments

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held March 12, 2014, as follows:

Office Building # 8
744 P St., Room 103
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on March 12, 2014.

Following the public hearing CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahw.net.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below:

CONTACT: Office of Regulations Development
California Department of Social Services
744 P Street, MS 8-4-192
Sacramento, California 95814
TELEPHONE: (916) 657-2586 FACSIMILE: (916) 654-3286
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CHAPTERS

Manual of Policies and Procedures (MPP) Chapter 44-300.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Before the implementation of All County Letters (ACLs) 12-02, 12-23 and 12-66, it was possible for County Welfare Departments (CWDs) to establish and conduct overpayment (OP) recoupment processes against any members of an overpaid Assistance Unit (AU) at any time. This meant that if a child moved to a new AU from an overpaid AU, or had been in an overpaid AU as a child, he or she could be held liable for OPs incurred by the AU's parent or caretaker relative.

Hartley v. Lightbourne (Case No. RG11605702, 11/05/2012, Alameda Superior Court) challenged the Department's policy on OP recoupment against certain populations of persons, described above. In an attempt to proactively avoid prolonged litigation, the Department issued a series of ACLs addressing the opposing party's major concerns.

The release of ACLs 12-02, 12-23 and 12-66 reduced the population against whom OP recoupments shall be established. These ACLs mandated that, as of January 6, 2012, CWDs shall no longer collect OPs from the following: 1) adults or emancipated minors who were minors receiving cash aid in an AU when an OP occurred, and 2) any minor who becomes a member of a new AU when the OP occurred while the minor was a member of the previous AU.

ANTICIPATED BENEFITS

The Department anticipates that these proposed regulations will benefit needy and vulnerable adults and children who were receiving cash aid in a previous AU when an OP occurred by relieving them of the OP liability. Additionally, the proposed regulations will make other technical, conforming changes, such as renumbering of sections and amending cross references as necessary.

The Department reviewed existing program regulations and determined that no other regulations clarify the requirements provided for by the litigation. These proposed regulations are not only consistent and compatible with existing state regulations but also with the intent of *Hartley v. Lightbourne*.

COST ESTIMATE

1. Costs or Savings to State Agencies: Overpayment collections are not included in the Department's budget; however, some portion of the outstanding balance of overpayment collections may not be collected resulting in loss of state revenue, though the impact is assumed to be minimal. Any automation or administration cost associated with this change was determined absorbable within existing funds.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: Overpayment collections are not included in the Local Assistance budget. Any automation or administration cost associated with this change was determined absorbable within existing funds.
3. Nondiscretionary Costs or Savings to Local Agencies: None

4. Federal Funding to State Agencies: Overpayment collections are not included in the Local Assistance budget. Any automation or administration cost associated with this change was determined absorbable within existing funds.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate on local agencies. If the Commission on State Mandates determines that these regulations contain reimbursable costs mandated by the state, reimbursement to local agencies for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has made an initial determination 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 because this regulatory action only affects CalWORKs program recipients.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

These regulations as set forth in All County Letters (ACLs) 12-02, 12-23 and 12-66 are only applicable to CalWORKs program recipients. The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action do not have a cost impact on the private sector.

SMALL BUSINESS IMPACT STATEMENT

The CDSS has made an initial determination that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The benefit of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment is that it allows counties more effective utilization of limited resources for CalWORKs program services and provides counties additional flexibility to address funding constraints due to the continued reduction to the CalWORKs single allocation. The CDSS anticipates that these proposed regulations will benefit needy and vulnerable adults and children who were receiving cash aid in a previous AU when an OP occurred by relieving them of the OP liability. Additionally, the proposed regulations will make other technical, conforming changes, such as renumbering of sections and amending cross references as necessary.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

The *Hartley v. Lightbourne* Settlement Agreement was reached after considerable negotiations between the CDSS and opposing counsel. The Settlement Agreement represents both parties' consideration of alternatives and the compromise reached was considered best for the affected population.

The CDSS must determine 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 actions or would be more cost effective to affected private persons and equally effective in implementing that statutory policy or other provision of law.

ANTICIPATED BENEFITS

The CDSS anticipates that these proposed regulations will benefit needy and vulnerable adults and children who were receiving cash aid in a previous AU when an OP occurred. Additionally, the proposed regulations will make other technical, conforming changes, such as renumbering of sections and amending cross references as necessary.

AUTHORITY AND REFERENCE CITATIONS

The CDSS adopts these regulations under the authority granted in Sections 10553, 10554, and 11004(h), Welfare and Institutions Code. Subject regulations implement and make specific *Hartley v. Lightbourne* (Case No. RG11605702, 11/05/2012, Alameda Superior Court).

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Backup: Zaid Dominguez (916) 657-2586

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.