

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



August 27, 2004

ALL COUNTY LETTER NO. 04-33

TO: ALL COUNTY WELFARE DIRECTORS
 ALL CalWORKs PROGRAM SPECIALISTS
 ALL WELFARE-TO-WORK COORDINATORS
 ALL CAL-LEARN COORDINATORS
 ALL CAL-LEARN CASE MANAGEMENT AGENCIES
 ALL CONSORTIUM PROJECT MANAGERS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: FRY V. SAENZ LAWSUIT

REFERENCE: All County Letter (ACL) 01-77; All County Information Notice (ACIN) 1-71-02

The purpose of this ACL is to provide county welfare departments (CWDs) with initial implementation instructions as required by the judgment and writ issued on July 7, 2004, in the Fry v. Saenz lawsuit. This case challenged state law (Welfare and Institution Code Section 11253) prohibiting the granting of California Work Opportunity and Responsibility to Kids (CalWORKs) cash aid to children who have reached 18 years of age, unless the child can reasonably be expected to graduate before age 19. The lawsuit claimed that this provision violates the Americans with Disabilities Act because it discriminates against recipients who would not graduate before age 19 due to a disability. The court ordered the California Department of Social Services (CDSS) to implement by ACL and regulation, a reasonable modification of the law to provide CalWORKs cash aid to otherwise eligible 18-year-olds who are attending school full-time and are not expected to graduate before age 19 due to their disability.

OVERVIEW

The CDSS must modify the rule [Manual of Policy and Procedures (MPP) 42-101.2] for determining CalWORKs cash aid and eligibility for otherwise eligible 18-year-olds (and their parent/caretaker relatives) who are attending school full-time and are not expected to graduate by age 19 from high school or vocational school because of their disability. This ACL implements the first phase of this modification and instructs counties to immediately cease denying, discontinuing or reducing the cash aid for all otherwise eligible 18-year-olds (and their parent/caretaker relatives) who are attending school full-time and are not expected to graduate by age 19. CWDs are instructed to flag cases impacted by Fry v. Saenz for future review until the teen turns 19, graduates or the instructions defining "disability" are issued by the CDSS.

The CDSS will issue a second ACL on or before November 12, 2004, to define "disability." It will provide the process and standards for identifying otherwise eligible 18-year-olds who are not reasonably expected to complete high school or vocational school before they turn 19 because of their disability. The instructions in this ACL remain in effect until further instructions are issued.

ACTIVE CASES

CWDs are instructed to immediately cease discontinuing CalWORKs cash aid for all otherwise eligible 18-year-olds (and their parent/caretaker relatives) who are attending school full-time and are not reasonably expected to graduate from high school or vocational school by age 19, regardless of the reason (MPP 42-101.2). CalWORKs cash aid for these otherwise eligible 18-year-olds and their parent/caretaker relatives will continue until the teen turns 19; the teen graduates from high school or vocational school; or the instructions defining "disability" are issued by the CDSS and make the 18-year-old ineligible, whichever comes first.

DISCONTINUANCES AND GRANT REDUCTIONS

CWDs are instructed to rescind the discontinuance of aid or grant reduction for an otherwise eligible 18-year-old (and their parent/caretaker relative) who is attending school full-time and is not reasonably expected to graduate from high school or vocational school by age 19, regardless of the reason, that was based solely upon current age requirement regulations and occurred between July 7, 2004, (the date of judgment entry) and the date the CWD implements this change. CWDs shall use Notice of Action (NOA) Message MT 42-101.2A to rescind the discontinuance or NOA Message MT 42-101.2B to rescind the grant reduction as soon as administratively feasible, but no later than 60 days from the date of this ACL. (NOA messages are attached to this ACL.)

APPLICANT CASES

CWDs are instructed to immediately cease denials of CalWORKs cash aid for an otherwise eligible 18-year-old (and their parent/caretaker relative) who is attending school full-time and is not reasonably expected to graduate from high school or vocational school by age 19, regardless of the reason, that were based solely upon current age requirement regulations. Denials occurring retroactive to July 7, 2004 shall be rescinded using the NOA Message MT 42-101.2C as soon as administratively feasible, but no later than 60 days from the date of this ACL. The appropriate approval NOA shall be sent at the same time as the Rescind Denial NOA message.

RETROACTIVE PAYMENTS

CWDs are instructed to issue retroactive payments back to July 7, 2004, for any case with an otherwise eligible 18-year-old (and their parent/caretaker relative) who is attending school full-time and is not reasonably expected to graduate from high school or vocational school by age 19, regardless of the reason, if cash aid were lost since July 7, 2004, solely because of current age requirement regulations. These retroactive payments must be issued in accordance with MPP Section 44-340, but no later than 60 days from the date of this ACL per the judgment and writ.

PREGNANT AND PARENTING TEENS

Pregnant or parenting teens who are 18 or are approaching their 18th birthday and are not expected to graduate from high school or vocational school by age 19, continue to have the option of establishing his or her own Assistance Unit. These teens must continue to be informed of their possible continuing eligibility options. See ACL 01-77 dated November 7, 2001, and ACIN I-71-02 dated September 23, 2002.

WELFARE-TO-WORK (WTW) REQUIREMENTS

For cases in which the discontinuance of aid is rescinded, nonexempt parents or caretaker relatives must comply with CalWORKs WTW requirements when cash aid is restored.

OVERPAYMENTS

Overpayments will not be assessed against any 18-year-old and their parent/caretaker relatives who received cash aid based on the instructions in this ACL if it's determined that the individual does not meet the disability criteria established by the CDSS.

CAMERA READY COPIES AND TRANSLATIONS

If your office has internet access, you may obtain copies of the English Notice of Actions (NOAs) from the CDSS web page at: www.dss.cahwnet.gov/cdssweb/On-lineFor_271.htm. For questions on the English NOAs, please call Forms Management Unit at (916) 657-1907.

For copies of NOAs in other languages, including Spanish NOAs, you may go to the CDSS web page at: www.dss.cahwnet.gov/cdssweb/formsandPU_274.htm. Translated materials are posted on an ongoing basis as soon as they are completed. For questions on translated materials, please contact Language Services at (916) 445-6778.

If you have any questions about this letter or the court order, you may contact Charlotte Doisy of the CalWORKs Eligibility Bureau at 916-657-3356 or at charlotte.doisy@dss.ca.gov. For questions regarding WTW requirements, please contact Milt Yee of the Employment Bureau at 916-657-3399 or at milton.yee@dss.ca.gov.

Sincerely,

Original signed by:

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

Attachments

c: CWDA
CSAC