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

August 17, 2007

REASON FOR THIS TRANSMITTAL

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

ALL COUNTY LETTER NO. 07-29

TO: ALL COUNTY WELFARE DIRECTORS
ALL FOOD STAMP PROGRAM SPECIALISTS
ALL CalWORKs PROGRAM SPECIALISTS
ALL FAIR HEARING SPECIALISTS
ALL SAWS CONSORTIA PROJECT MANAGERS
ALL COUNTY CHILD CARE COORDINATORS

SUBJECT: ACCESS TO CASE RECORDS AND USE OF MANUAL WORKAROUNDS

REFERENCE: SUPERSEDES ALL COUNTY INFORMATION NOTICE NO. I-33-06

Background

This All County Lettter incorporates information previously issued in All County Information Notice (ACIN) No. I-33-06, dated May 8, 2006. The information is being re-issued with further clarification due to continued concerns regarding counties' understanding of state and federal requirements to provide clients and their authorized representatives (AR) with unrestricted access to non-privileged information in welfare case records. These requirements must be met without regard to how the information is stored (i.e., hard copy files or electronic records) and in spite of challenges that may be present in county eligibility automation systems. Noncompliance with these requirements can be construed as a violation of clients' right to due process of the law. For ease, additional information that was not included in ACIN No. I-33-06 is shown in italic print.

Purpose

The information in this letter is intended to remind counties of certain program requirements that they must continue to meet despite limitations that may exist in county automated eligibility systems. First, applicants, recipients and their ARs are entitled to have access to their case records. If counties' automated systems are not set up to allow access to an applicant's or recipient's electronic case record, counties must use a manual workaround. Second, if automated systems are not programmed to fully comply with state and federal policies in all program areas, counties must utilize manual workarounds to achieve such compliance. These reminders are necessary as counties develop or refine their business processes related to the implementation of statewide automated welfare systems.

Full Access to Applicant/Recipient Case Records

Division 19 (Confidentiality of Records) of the California Department of Social Services' (CDSS) Manual of Policies and Procedures (MPP) in summary states as follows:

19-005.1 Information relating to eligibility that was provided solely by the applicant/recipient contained in applications, and other records made or kept by the county welfare department in connection with the administration of the public assistance program shall be open to inspection by the applicant/recipient or his/her authorized representative.

19-005.4 The applicant/recipient or his/her attorney or AR may inspect the case records including the entire case narrative relating to the applicant or recipient which are held by CDSS, Department of Health [Care] Services or any agency supervised by CDSS with the exception of privileged communications.

19-006 Information which may not be released to the applicant/recipient includes portions of the applicant/recipient's record which would qualify as privileged communications as defined by the Evidence Code.

Privileged Information

Any information provided by the applicant/recipient or his/her AR, or for which the applicant/recipient consented to release to the county, must be shown to the applicant/recipient and/or his/her AR. For example, the individual is entitled to see anything from his/her own or his/her children's health care providers, school attendance information, letters or records regarding attendance at Welfare to Work activities, notes of any case worker or supervisor he/she has spoken to or met with, verification of employment records, copies of reports submitted, Welfare to Work appraisals, assessments and exemption assessments and documents regarding supportive services, 60-month time limits, and related county documents.

The possibility of privilege exists only if information about the applicant/recipient comes to the county welfare department (CWD) from a third party, without the applicant/recipient's permission or knowledge. In a case containing only one adult or head of household, privileged 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 Children's Protective Services.

Other instances of potential 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). This could include information such as medical history or criminal background.

Additionally, privileged information includes the case records of minors who have received services under Minor Consent Medi-Cal. Access to such files is strictly limited to the minor who received the services.

If questions arise regarding privileged information, counties should consult with their county counsel for guidance.

County Processes

Counties that use paperless, electronic case files, such as in the CalWORKs Information Network and Consortium-IV counties, are required to fully meet this obligation by providing full access to case record information, as set forth in MPP Division 19.

County processes for meeting this obligation may include the following:

1. Providing read-only access to the claimant's entire electronic case record (with the exception of privileged information) and providing the applicant/recipient or AR with the capability to navigate through the system. This can be done by having a county worker help the applicant, recipient or the AR navigate through the computer screens or by providing them with navigational instructions. If this option is selected, CWDs must adhere to the requirement stated in MPP § 19-006 prohibiting the release of privileged information. This can be accomplished by establishing user profiles that prevent inappropriate access to privileged records and limiting access to data that is specific to the legitimate needs of system users. In so doing, the CWD can ensure that privileged information is unavailable to all but those users with authorized access.

2. Printing out every non-privileged document in the entire case record and presenting the printed case record to the applicant, recipient or the AR for examination, redacting any privileged information. *The CWD should not attempt to make a judgment concerning which documents are to be reproduced as "relevant" from the case record. Other than privileged information, the CWD cannot place limits on which documents the applicant/recipient or their AR may need or want to examine or have printed from a case record. Nor may the CWD charge clients for the cost of printing out the case record when the CWD chooses this method for making case records available for examination.*

Failure to provide applicants, recipients or their ARs with the opportunity for full case record review may cause unnecessary delays in the state hearing process.

Assessing Fees for Reproducing Documents from Case Records for Client's or AR's Use

State Hearing-Related

MPP § 22-051.3 requires that the CWD reproduce without charge, or at a charge related to the cost of reproduction, the specific policy materials, including regulations and non-priviledged documents from the case record, necessary for an applicant or recipient, or his/her AR, to determine whether a state hearing should be requested or to prepare for a state hearing. The Food Stamp program, however, requires that all such materials be made available to the household or its AR at no charge.

Non State Hearing-Related

If a client or AR requests copies of non-priviledged documents from the case record for a purpose not related to a state hearing, regulations do not prohibit a charge for the cost of photocopying.

Manual Workarounds

State and federal regulations do not allow any exceptions to program requirements caused by limitations in automated systems. State and federal mandates require eligibility and benefits to be determined and issued in a timely and accurate manner. When the automated systems are not able to do this, CWDs must utilize manual workarounds, particularly when benefits, including aid paid pending, have the potential to be delayed or incorrectly paid.

If you have any questions regarding this letter, please contact Yvonne Lee, Chief of the Program Technology and Support Bureau at (916) 654-1874 or by email at yvonne.lee@dss.ca.gov.

Sincerely,

Charr Lee Metsker

CHARR LEE METSKER
Deputy Director
Welfare to Work Division

c: County Welfare Directors Association