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

April 30, 1997

ALL COUNTY LETTER NO. 97-28

TO: ALL COUNTY WELFARE DIRECTORS

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: RESTRICTED PAYMENTS IN THE AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) AND REFUGEE CASH ASSISTANCE (RCA) PROGRAMS

REFERENCES: SENATE BILL (SB) 1110, CHAPTER 838, STATUTES OF 1995
WELFARE AND INSTITUTIONS CODE (WIC) 11274

Introduction

The purpose of this letter is to provide County Welfare Departments (CWDs) with notice of the above-referenced statute. The law provides that counties have the option to implement restricted payments in the AFDC program. The provisions also apply to the RCA program.

"Restricted payments" are payments made in the form of vendor payments or two-party payments to a shelter or utility provider. Restricted payments may be made on a voluntary or involuntary basis.

Implementation Authority

On December 7, 1996, the California Temporary Assistance for Needy Families (TANF) Plan was certified complete by the federal Department of Heath and Human Services effective November 26, 1996. 42 United States Code (USC), Section 402(a)(1)(B)(iii) provides that the TANF program must be operated using objective criteria for the determination of eligibility and delivery of benefits and fair and equitable treatment of recipients. Under TANF, county programs can differ in detail if the foregoing criteria are met. Thus, the certification by DHHS provides authority for counties to individually implement a fair and equitable program of restricted payments.

Counties that elect to implement restricted payments under SB 1110 must comply with the provisions of the statute, which is attached for reference. These provisions will soon be placed into the Handbook portion of the Manual of Policies and Procedures to provide continued access to this material.

Implementation

Counties that establish restricted payments must provide notification to the California Department of Social Services (CDSS). This notification must specify the effective date of implementation and include a copy of the county's implementation package. Counties operating restricted payments under SB 1110 who subsequently terminate the policy must notify the CDSS prior to the date of termination.

Notifications regarding SB 1110 should be provided to:

AFDC Policy Implementation Bureau
California Department of Social Services
744 "P" Street, MS 16-54
Sacramento, CA 95814

Homeless Assistance and Current County Vendor Payment Programs

A program of restricted payments can coexist with vendor payment systems currently operated by counties. The provisions addressing "restricted payments" in the Homeless Assistance (HA) program as specified in WIC 11271, 11272 and 11273 and MPP 44-211.517 are not affected by establishment of restricted payments under SB 1110.

State Hearings

Case actions related to restricted payments are subject to the State Hearing process.

Contacts

If you have questions regarding this letter, please contact the following:

Subject	Contact Person	Phone
AFDC Implementation	Alison Garcia	(916) 654-0989 or CALNET 464-0989
State Hearings	Rosie Morefield	(916) 229-4156 or CALNET 424-4156

Sincerely,

Bruce Wagstaff

BRUCE WAGSTAFF
Deputy Director
Welfare Programs Division

Attachments

Senate Bill No. 1110

CHAPTER 838

An act to add Section 11274 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor October 12, 1995. Filed with Secretary of State October 13, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1110, Maddy. AFDC: restricted payments.

Existing law provides for the Aid to Families with Dependent Children (AFDC) program, pursuant to which qualified families are provided with cash assistance. The AFDC program is administered and partially funded by the counties. The AFDC program is partially funded by federal participation and is subject to federal requirements for federal participation.

Existing law authorizes the use of restricted payments on behalf of certain AFDC recipients for homeless benefits if the recipient has mismanaged AFDC funds or the recipient has voluntarily requested restricted payments.

This bill would authorize any county to provide restricted AFDC payments for rent or utilities or both, for any AFDC recipient, in the form of a 2-party payment to the recipient and service provider or a vendor payment, if the county determines that the recipient has demonstrated such an inability to manage funds that payments are not used in the best interest of the child or the recipient voluntarily requests the restricted payment.

The people of the State of California do enact as follows:

SECTION 1. Section 11274 is added to the Welfare and Institutions Code, to read:

11274. (a) Notwithstanding Section 11271, for purposes of this section, the following definitions shall apply:

(1) "AFDC" benefits means benefits paid pursuant to subdivision (a) of Section 11450.

(2) "Recipient" means a recipient of aid pursuant to subdivision (a) of Section 11450.

(3) "Restricted payment" means payment of AFDC benefits in the form of any of the following:

(A) A vendor payment to the provider of shelter or utilities, or both.

(B) A two-party payment for rent or utilities, or both.

(4) "Two-party payment" means a check that is drawn jointly to the order of the recipient and the service provider and is negotiable only upon the endorsement of both parties.

(5) "Vendor payment" means a voucher or check drawn to the order of the service provider.

(b) A county may, at its option, provide restricted payments for AFDC on behalf of a recipient to the provider of shelter or utilities, or both, if the county determines that the recipient has demonstrated such an inability to manage funds that payments to the relative have not been or are not currently used in the best interest of the child. A recipient shall be presumed to have mismanaged funds when he or she has previously failed to pay rent within the past 12 months, unless the failure was due to a significant rent increase, a reasonable exercise of a tenant's right to withhold rent for repair and deduct, or domestic violence by a spouse, partner, or roommate.

(c) If the county, at its option, elects to establish a program to provide restricted payments to the provider of shelter or utilities, or both, the county shall do all of the following:

(1) Provide restricted payments on behalf of recipients who request them, in addition to making involuntary restricted payments to those persons to whom subdivision (b) applies.

(2) Continue voluntary restricted payments for not less than three months, unless the county determines that exceptional circumstances exist that require that the restricted payments be ended earlier.

(3) If a recipient notifies the county at least two weeks prior to the issuance of the next regular rental payment that he or she wishes to exercise his or her right to withhold rent due to untenantable conditions, issue a two-party check to the recipient requiring endorsement of both the landlord and the recipient.

(4) If a recipient notifies the county at least two weeks prior to the issuance of the next regular rental payment that he or she wishes to exercise his or her right to repair and deduct the money pursuant to Section 1942 of the Civil Code, and the amount the tenant wishes to deduct, deduct that amount from the restricted payment to the landlord and add the amount to the recipient's grant check.

(5) If a recipient notifies the county at least two weeks prior to the issuance of the next regular rental payment that he or she intends to move, provide the next regular rental payment to the new landlord. If the recipient indicates his or her intent to move but does not provide the name and address of the new landlord, the county shall terminate restricted payments for rent until the name and address of a new landlord is provided.

(d) (1) In no case is a landlord entitled to payment under this section for days that the recipient was not residing at the landlord's property.

(2) If a landlord does receive a restricted payment pursuant to this section for days that the recipient did not reside at the landlord's property, the landlord shall remit to the county welfare department an amount that represents the overpaid rent.

(3) The county may not assess an overpayment against a recipient for payments made to a landlord for periods in which the recipient was not residing at that location.

(4) A landlord may not base an eviction or late fee upon failure to receive rent due to county administrative error.

(5) If the notice from the recipient is given less than two weeks prior to a move, the county shall pay the new landlord as soon as practicable.

(6) Nothing in this subdivision shall be construed to prevent a landlord accepting restricted payments from pursuing existing remedies against a tenant or former tenant for money that may be owed by the tenant to the landlord.

(e) Restricted payments shall expire after a period of 12 months, unless the recipient requests a continuation of that period or the county finds that the recipient continues to experience money management problems. The county shall provide notification to the recipient within 30 days of the expiration of the restricted payment.

(f) When restricted payments are provided on behalf of a recipient, the county welfare department shall do all of the following:

(1) Either of the following:

(A) Mail or deliver the voucher or check to the recipient for delivery to the service provider.

(B) Mail or deliver the voucher or check directly to the service provider.

(2) Provide timely notification to the recipient that the restricted payment has been made.

(3) Refer the family to appropriate money management services, where those services exist.

(g) If the restricted payment involves a third party, the third-party payee shall be an individual or organization interested in, or concerned with, the recipient's welfare; and shall not include any employees of the county welfare department or parties who are vendors who stand to gain financially from doing commercial business with the recipient. To the extent possible, the selection of a third-party payee shall be made by the recipient, or with his or her participation and consent.

(h) Any landlord who accepts a restricted payment of AFDC benefits shall not require his or her tenant to pay the last month's rent in advance or retain any portion of the tenant's security deposit as rent owing.

(i) (1) Nothing in this section shall be construed to prevent a landlord who accepts a restricted payment of rent pursuant to this section from charging a cleaning or damage deposit, or a deposit for

both cleaning and damage, in an amount that does not exceed an amount equal to rent for one month.

(2) Nothing in this section shall be construed to limit the rights of tenants provided under Section 1942 of the Civil Code.

(j) (1) The department shall seek all appropriate federal waivers for the implementation of this section.

(2) The department shall implement this section commencing on the date the Director of Social Services executes a declaration, that shall be retained by the director, stating that the administrative actions required by paragraph (1) as a condition of implementation of subdivisions (a) to (i), inclusive, have been taken by the director and the waivers have been obtained from the United States Secretary of Health and Human Services.

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