

FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis to meet the need for immediate action to avoid serious harm to the public peace, health safety, or general welfare, within the meaning of Government Code Section 11346.1.

DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

- Current regulations provide that an Assistance Unit (AU) which includes a recipient shall be allowed to retain cash reserves totaling a maximum of \$5,000 in a restricted account at a financial institution. The new statutory requirements of AB 1078 (Chapter 622, Statutes of 2007) which became effective on January 1, 2008 provide there is no maximum amount that a CalWORKs recipient may save in a restricted account. Current CalWORKs recipients are being discontinued for excess resources when under this new statute they should maintain eligibility.
- Current regulations direct county welfare departments to follow food stamp regulations pertaining to personal property and resources to be excluded from consideration when evaluating property limits. Food Stamp regulations exempt 401(k), 403(b), and 457 retirement accounts from resource consideration for both applicants and recipients. AB 1078 (Chapter 622, Statutes of 2007) excludes these accounts for recipients and applicants effective January 1, 2008.
- AB 1078 mandates that county welfare department staff ask CalWORKs recipients at their annual redetermination if they are eligible for the Earned Income Tax Credit (EITC), and if they are eligible, to help them to take advantage of the EITC.
- Current regulations do not exempt Individual Retirement Accounts (IRAs), 529 college savings plans and Coverdell Educational Savings Accounts (ESAs) from consideration as property. AB 2466 (Chapter 781, Statutes of 2006) exempts these three accounts for CalWORKs recipients only, effective January 1, 2007. If any current CalWORKs recipients saved more than the property limit in any of these accounts, they would be discontinued when they should remain eligible for aid.
- Failure to implement these provisions on an emergency basis will result in the Department's regulations being out of conformity with state law and leave the state and counties without specific regulatory authority to apply the new statutory requirements of AB 1078 (Chapter 622, Statutes of 2007), and AB 2466 (Chapter 781, Statutes of 2006), which benefits recipients, and applicants of the CalWORKs program.
- Failure to implement these regulations on an emergency basis could result in some families not being able to access CalWORKs benefits, and some families to become ineligible for CalWORKs benefits. Moreover, failure to implement these regulations on

an emergency basis can result in delay of recipients obtaining information about and taking advantage of the EITC.

- Delay in the implementation of these regulations would put CDSS at risk of legal action which could be brought by individuals or advocacy organizations on behalf of individuals who are legally eligible but who have not been granted benefits due to the lack of implementing regulations.
- The Department has acted diligently and efficiently to prepare the attached emergency regulations, and without using the emergency process could not implement these regulations in time to avoid the potential harm described above.
- The non-emergency rulemaking process set forth in the Administrative Procedure Act is sufficiently lengthy that it is not possible to implement these regulations changes on an immediate basis.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current regulations provide that an Assistance Unit (AU) which includes a recipient shall be allowed to retain cash reserves totaling a maximum of \$5,000 in a restricted account at a financial institution. Current regulations direct county welfare departments to follow food stamp regulations pertaining to personal property and resources to be excluded from consideration when evaluating property limits. Assembly Bill (AB) 2466 (Chapter 781, Statutes of 2006) and AB 1078 (Chapter 622, Statutes of 2007) made changes to the asset exclusion rules for California Work Opportunity and Responsibility to Kids (CalWORKs) applicants and recipients. The intent of these bills is to promote savings and self-sufficiency in CalWORKs families. AB 2466 added three retirement account exemptions for CalWORKs recipients and inadvertently took away three retirement account exemptions for CalWORKs applicants. AB 2466 was never implemented because it harmed applicants. AB 1078 reinstated the three exemptions for applicants, added three more exemptions for recipients, removed the \$5,000 limit on restricted accounts for CalWORKs recipients, and increased Earned Income Tax Credit (EITC) outreach and education.

These regulations will establish the expansion of the CalWORKs asset exclusion rules as mandated by AB 2466 and AB 1078. Current CalWORKs recipients, therefore, are being disadvantaged until these regulations and procedures can be put in place.

COST ESTIMATE

1. Costs or Savings to State Agencies: None.
2. Costs to Local Agencies or School Districts: None
3. Nondiscretionary Costs or Savings to Local Agencies: \$4,000 has been budgeted for AB 2466 and AB 1078 as reflected in the FY 2008/09 Budget.
4. Federal Funding to State Agencies: \$274,000 has been budgeted for AB 2466 and AB 1078 as reflected in the FY 2008/09 Budget.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate on local agencies, but not on school districts. 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.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Sections 10553 and 10554 of the Welfare and Institutions Code. Subject regulations implement and make specific Sections 11155.2, 11155.6 and 11322.5, Welfare and Institutions Code, as adopted or amended by AB 2466 (Chapter 781, Statutes of 2006), and AB 1078 (Chapter 622, Statutes of 2007).