

FINAL STATEMENT OF REASONS

a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

The proposed regulations implement changes consistent with the objectives of Assembly Bill (AB) 1808, Sections 27.3 and 29.3, Chapter 75, Statutes of 2006, and reorganize the legal and regulatory requirements under which the program is operated. In some instances, renumbering of sections and amending of cross-references is also necessary.

Section 42-721.232(j)

Specific Purpose:

This section is amended to delete a reference to the end of minimum sanction periods.

Factual Basis:

AB 1808 eliminated the minimum Welfare-to-Work sanction periods of three or six months for second, third, and subsequent financial sanctions for California Work Opportunity and Responsibility to Kids (CalWORKs) recipients who do not comply with program requirements. Instead, individuals may cure their sanction at any time they perform the activity they previously refused to perform, or another appropriate activity, regardless of the number of times they have been sanctioned. The initial activity may no longer be appropriate for the individual or it may no longer be available. Minimum sanction periods were made obsolete by AB 1808, Section 29.3. This amendment is necessary to comply with Welfare and Institutions Code Section 11327.5(d), as amended by AB 1808, Chapter 75, Statutes of 2006.

Section 42-721.412

Specific Purpose:

This section is repealed to delete language that refers to minimum sanction periods, which were repealed by AB 1808, for reunification parents and renumbers Section 42-721.413 to .412 for numerical sequencing.

Factual Basis:

This amendment is necessary to comply with Welfare and Institutions Code Section 11327.5(d), as amended by AB 1808, Chapter 75, Statutes of 2006. An individual may contact the county and request to cure his or her sanction without having to wait a minimum sanction period. Minimum sanction periods were made obsolete by AB 1808.

Section 42-721.43

Specific Purpose:

This section is amended to remove language that refers to increases in the period of time individuals must remain in sanction and establish what individuals must do to end a financial sanction for not complying with program requirements.

Factual Basis:

This amendment is necessary to comply with Welfare and Institutions Code Section 11327.5(d), as amended by AB 1808, Chapter 75, Statutes of 2006. Further, the amendment's provision that requires counties to specify another appropriate activity for an individual to perform to end his or her sanction, when the original activity is no longer available or appropriate, is necessary to allow all individuals to end a financial sanction. This provision is developed under provisions of Welfare and Institutions Code Section 10553, which provides the Director of the California Department of Social Services with the authority to adopt regulations to ensure consistency in the administration of the CalWORKs program.

Sections 42-721.431, .432, and .433

Specific Purpose:

These sections are repealed to eliminate the requirement that specifies that individuals in their second, third, or subsequent instance of noncompliance wait a minimum period of time before being allowed to cure their sanction.

Factual Basis:

Any instance of noncompliance without good cause shall result in a financial sanction until the noncomplying participant performs the activity(ies) he or she previously refused to perform, or another appropriate activity. The initial activity may no longer be appropriate for the individual or it may no longer be available. An individual may contact the county and request to cure his or her sanction without having to wait a minimum sanction period. This change is necessary to comply with Welfare and Institutions Code Section 11327.5(d), as amended by AB 1808, Chapter 75, Statutes of 2006.

Section 42-721.454

Specific Purpose:

This section is amended to delete language that refers to minimum sanction periods.

Factual Basis:

A sanctioned participant will be removed from the assistance unit until his or her curing plan is completed and is not removed from the assistance unit for any specified period of time. This change is necessary to comply with Welfare and Institutions Code Section 11327.5(d), as amended by AB 1808, Chapter 75, Statutes of 2006.

Section 42-721.481 and Handbook Section 42-721.483(QR)

Specific Purpose:

Section 42-721.481 is amended to delete language that refers to minimum sanction periods and clarify when aid shall be restored after a sanction is cured. Handbook Sections 42-721.483(QR) (a) and (b) are added to provide clarity to when aid shall be restored after a sanction is cured.

Factual Basis:

Aid shall be restored to a CalWORKs participant when an individual decides to perform the activity(ies) that he or she previously refused to perform or another appropriate activity, completes his or her compliance plan, and is otherwise eligible. The initial activity may no longer be appropriate for the individual or it may no longer be available. An individual does not have to wait until a minimum sanction period expires because minimum sanction periods were made obsolete by AB 1808. Aid is restored the first day of the month following the request to cure the sanction, once the cure plan has been completed. This change is necessary to comply with Welfare and Institutions Code Section 11327.5(d), as amended by AB 1808, Chapter 75, Statutes of 2006.

Final Modification:

Following the public hearing, this section has been further amended for clarity purposes as a result of public testimony. It also includes additional information with regard to the requirement that a county send a supplemental payment if the individual completes the activity after the first of the month following the date of the request to cure the sanction. The supplemental payment shall be retroactive to the first of the month following the date of the request to cure the sanction.

Sections 42-721.49 through Handbook Section 42-721.491(a)

Specific Purpose:

These sections are added to clarify that an individual who leaves aid must cure his sanction before aid can be granted. Handbook Section 42-721.491(a) is added to provide clarity that an individual who leaves aid must cure his or her sanction before aid can be granted.

Factual Basis:

For a person who has left aid with his or her family and has subsequently reapplied, aid shall be granted to the CalWORKs applicant when the individual decides to perform the activity(ies) that he or she previously refused to perform or another appropriate activity, completes his or her compliance plan, and is otherwise eligible. The initial activity may no longer be appropriate for the individual or it may no longer be available. An individual does not have to wait until a minimum sanction period expires because minimum sanction periods were made obsolete by AB 1808. Aid shall be restored back to the first of the month following the request to cure the sanction, once the cure plan has been completed. Aid shall be granted as a county-initiated mid-quarter change.

Section 42-780.6

Specific Purpose:

This section adopts new requirements regarding a county plan addendum.

Factual Basis:

AB 1808, Section 27.3, requires counties to submit a county plan addendum every three years. This change is necessary to comply with Welfare and Institutions Code Section 10534, as added by AB 1808, Chapter 75, Statutes of 2006.

Section 44-303.34

Specific Purpose:

This section is amended to delete language that refers to minimum sanction periods and to clarify when vouchers or vendor payments must be issued to an individual who is sanctioned for failing to comply with program requirements.

Factual Basis:

Minimum sanction periods were made obsolete by AB 1808, Section 29.3. Since an individual can now cure his or her sanction at any time, it is not known how long a sanction will last. Therefore, vouchers or vendor payments may begin after a CalWORKs recipient has been on sanction status for at least three months. A county shall establish when to begin to issue vouchers or vendor payments after this three month period in sanction status. This timeframe shall be included in a county's written policies and procedures. This section is also developed under the provisions of Welfare and Institutions Code Section 10553, which provides the Director of the California Department of Social Services (CDSS) with the authority to adopt regulations to ensure consistency in the administration of the CalWORKs Program. Thus, this change is necessary to comply with Welfare and Institutions Code Section 11327.5(d), as amended by AB 1808, Chapter 75, Statutes of 2006.

Final Modification:

Following the public hearing, this section is being amended to incorporate the requirement that counties shall issue vendor and voucher payments for at least rent and utilities, consistent with Welfare and Institutions Code Section 11453.2. This section has also been further amended to clarify the population to which these regulations refer.

Section 44-307.12

Specific Purpose:

This section is amended to delete language that refers to minimum sanction periods and clarify when voucher or vendor payments must be issued to an individual who is sanctioned for failing to comply with program requirements.

Factual Basis:

Durational sanctions were made obsolete by AB 1808. Since an individual can now cure his or her sanction at any time, it is not known how long a sanction will last. Therefore, vouchers or vendor payments may begin after a CalWORKs recipient has been on sanction status for at least three months. A county shall establish when to begin to issue vouchers or vendor payments after this three month period in sanction status. This timeframe shall be included in a county's written policies and procedures. This section is also developed under the provisions of Welfare and Institutions Code Section 10553, which provides the Director of the California Department of Social Services (CDSS) with the authority to adopt regulations to ensure consistency in the administration of the CalWORKs Program. Thus, this change is necessary to comply with Welfare and Institutions Code Section 11327.5(d), as amended by AB 1808, Chapter 75, Statutes of 2006.

Final Modification:

Following the public hearing, this section is being further amended to incorporate the requirement that counties shall issue vendor and voucher payments for at least rent and utilities, consistent with Welfare and Institutions Code Section 11453.2. This section has also been further amended to clarify the population to which these regulations refer.

Section 44-318.13 (QR)

Specific Purpose:

This section is amended to delete language that refers to minimum sanction periods.

Factual Basis:

Aid shall be restored on the first of the month following the date the person completes their curing plan. There are no minimum sanction periods, as minimum sanction periods were

made obsolete by AB 1808. This change is necessary to comply with Welfare and Institutions Code Section 11327.5(d), as amended by AB 1808, Chapter 75, Statutes of 2006.

Final Modification:

Following the public hearing, this section is being further amended to reflect corrected information regarding the beginning date of aid. Under the Quarterly Reporting system, once the individual has completed curing the sanction, aid shall be restored to the first of the month following the date the individual contacted the county and requested to cure.

Section 82-812.687(e)

Specific Purpose:

This section is amended to delete language that refers to minimum sanction periods, which were repealed by AB 1808, for reunification parents.

Factual Basis:

Reunification parents who are sanctioned may still receive CalWORKs reunification services. There are no required minimum sanction periods. This change is necessary to comply with Welfare and Institutions Code Section 11327.5(d), as amended by AB 1808, Chapter 75, Statutes of 2006.

b) Identification of Documents Upon Which Department Is Relying

Assembly Bill No. 1808, Sections 27.3 and 29.3, Chapter 75, Statutes of 2006.

c) Local Mandate Statement

These regulations do impose a mandate upon 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.

d) Statement of Alternatives Considered

CDSS has determined that no reasonable alternative considered would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action, or that has otherwise been identified and brought to the attention of CDSS and would lessen any adverse impact on small business.

e) Statement of Significant Adverse Economic Impact on Business

CDSS has determined 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.

f) Testimony and Response

These regulations were considered as Item #02 at the public hearing held on August 13, 2008, in Sacramento, California. Oral testimony was not presented; however, written comment was received during the 45-day comment period from Mr. Bill Taylor, Director of Intergovernmental Relations, Los Angeles County DPSS; contact person Patricia Bautista. Written comment was also received from Staff Attorney, Nu Usaha, Western Center on Law and Poverty.

Mr. Taylor commented in the following manner:

- **44-303-Aid Payments Defined
Section 44-303.34**

1. Comment:

The Statement, “**In CalWORKs cases in which a parent or caretaker relative has been subject to sanction for at least three consecutive months...**” causes confusion as to the target population. The wording implies two different populations; (1) cases subject to a sanction and (2) cases already sanctioned. Each will yield a different population.

-Cases subject to a sanction are in a noncompliance status or have a pending sanction. We suggest that the regulation clarify the target population.

-In addition, it appears Section 44-303.34 aims to apply Vendor Payments to the sanctioned population. However, the wording does not make this clear. We suggest clarification on the scope of Section 44-303.34.

Response:

The Department will make this change in order to better define the population to which this regulation applies.

Staff Attorney, Nu Usaha, commented in the following manner.

Section 42-721.48-CWD shall restore aid:

There are several issues with this section.

2. Comment:

1. Section 42-721.481 is not clear as to when aid shall be restored because it refers both to the date of the request and the completion of the activities as the date when the county must restore aid (“The CWD shall restore aid; *on the first day of the month following*” the request, “*once the activities... have been successfully completed.*”) (italics added). We suggest clarifying this by breaking the sentence into two sentences. (Suggested language is below).

Response:

The Department agrees and is amending this regulation to ensure that language is clear.

3. Comment:

2. Since the activities cannot always be complete by the first of the month, section 42-721.481 must also include a subpart that clarifies that the county shall issue a supplemental payment, if the activity is complete after the 1st of the month after request.

Response:

The Department agrees to clarify this section and is amending this regulation to include the requirement that a county send a supplemental payment if the individual completes the activity after the first of the month following the date of the request to cure the sanction. That supplemental payment shall be retroactive to the first of the month following the date of the request to cure the sanction.

4. Comment:

3. Section 42-721.481 does not explain the Department’s policy, adopted in All-County Letter 03-59, that the cure for sanction is complete after 30 days for ongoing activities. *See* ACL 03-59 at 10, 13-14. Given that the purpose of AB 1808 was to eliminate durational sanctions so that sanctioned individuals could return to activities and be counted as part of the Work Participation Rate, the regulation should make clear that the sanction has been cured once the sanctioned individual has completed the activity or when he has performed an ongoing activity for 30 days. In addition, Welfare and Institutions Code section 11327.5(5) does not require the sanctioned individual to “complete” the activity that he previously refused to perform. Instead, the statute states that the “sanction shall terminate at any point if the noncomplying participant *performs* the activity or activities.” (emphasis added). (Suggested language is below).

Response:

The Department has determined that Welfare and Institutions Code Section 11327.5(d) requires an individual to complete the requirements to cure a sanction for a sanction to be considered cured. According to the American Heritage College Dictionary (Fourth Edition,

Boston: Houghton Mifflin, 2004), perform means “To begin and carry through to completion.” Therefore, under the Quarterly Reporting system, once the individual has cured the sanction, aid shall be restored the first of the month following the date the individual contacted the county and requested to cure. Additionally, the Department believes that it goes outside of the scope of this regulations package to further define the length of the activity needed to cure a sanction. This concept will be covered in a separate regulations package. No revisions will be made to the regulations based on this comment.

5. Comment:

4. In addition, it is unclear for what period the CWD will actually issue a check. Under the QR system, the change would not be implemented until the first of the month after the request to cure, but that does not resolve the period for which the cash aid shall be issued after a cure. Welfare and Institutions Code section 11327.5(d) provides that a sanction “shall terminate at any point if the noncomplying participant performs the activity or activities he or she previously refused to perform.” Based on the statutory language, the CWD must issue cash aid retroactive to the first of the month the individual requested the cure.

Response:

The Department has determined that Welfare and Institutions Code Section 11327.5(d) requires an individual to complete the requirements to cure a sanction for a sanction to be considered cured. According to The American Heritage College Dictionary (Fourth Edition, Boston: Houghton Mifflin, 2004), perform means “To begin and carry through to completion.” Therefore, under the Quarterly Reporting system, once the individual has cured the sanction, aid shall be restored to the first of the month following the date the individual contacted the county and requested to cure. No revisions will be made to the regulations based on this comment.

6. Comment:

The following language for Section 42-721.48 was suggested to the Department from the Western Center on Law and Poverty.

“.48 The CWD shall restore aid:

.481 On the first day of the month following the date that the individual contacted the county to indicate his or her desire to end the sanction,

- (a) Once the individual has successfully completed activities in accordance with Section 42-721.43, or for activities that last longer than 30 days, has performed the activities for 30 days; and
- (b) If the individual is determined to be in compliance with program requirements, and is otherwise eligible.

- (c) If the individual completes the activities after the first of the month following the date of the request to end sanction, the county shall issue a supplemental payment; or (Continued)

.483 (QR) (Continued)

HANDBOOK BEGINS HERE

(a) Example: An individual who was sanctioned for failing to attend orientation contacts the CWD on July 14 and indicates he wished to end his sanction. The individual signs his curing plan on July 17, attends orientation on July 23 as required by his curing plan, and thereby cures his sanction. On August 1, if the individual is otherwise eligible, his cash aid is restored. *See* Section 42-721.49 regarding the beginning date of aid for ending a sanction.

(b) Example: An individual contacts the CWD on July 14 and indicates she wishes to end her sanction. The individual signs her curing plan on July 17, which specifies that she must participate in two weeks of job search/job club beginning on July 23. She successfully completes job search/job club on August 5, and ends her sanction. If the individual is otherwise eligible, her cash aid is restored back to August 1. *See* Section 42-721.49 regarding the beginning date of aid for ending a sanction.

HANDBOOK ENDS HERE”

Response:

The Department has determined that this regulation may be written more clearly and will revise the language. The suggestions on the handbook examples regarding the references to other Manual of Policies and Procedures sections will not be incorporated because the Department has determined that these examples should stand alone.

Section 42-721.49-The CWD shall grant aid:

There are three issues with this section.

7. Comment:

- 1. Section 42-721.491 references 42-721.34, which does not exist. The reference should be to section 42-721.43.

Response:

MPP Section 42-721.491 correctly references MPP Section 42-721.43. No revisions will be made to the regulations based on this comment.

8. Comment:

- 2. As discussed above, under the QR system, the change would not be implemented until the first of the month after the request to cure, but Welfare & Institutions Code section 11327.5(d) provides that a sanction “shall terminate at any point if the noncomplying

participant performs the activity or activities he or she previously refused to perform.” Based on the statutory language, the CWD must issue cash aid retroactive to the first of the month the individual requested the cure. The suggested language is below.

Response:

The Department has determined that Welfare and Institutions Code Section 11327.5(d) requires an individual to complete the requirements to cure a sanction for a sanction to be considered cured. According to The American Heritage College Dictionary (Fourth Edition, Boston: Houghton Mifflin, 2004), perform means “To begin and carry through to completion.” Therefore, under the Quarterly Reporting system, once the individual has cured the sanction, aid shall be restored to the first of the month following the date the individual contacted the county and requested to cure. No revisions will be made to the regulations based on this comment.

9. Comment:

The following language for Section 42-721.49 was suggested to the Department from Western Center on Law and Poverty.

“.49 The CWD shall grant aid:

.491 On the first day of the month following the date that the individual contacted the county to indicate his or her desire to end the sanction, retroactive to the 1st of the month the individual contacted the county, or beginning date of aid, whichever is later, once the activities in accordance with Section 42-721.43 have been successfully completed, if the individual applies for aid, is determined to be in compliance with program requirements, and is otherwise eligible.

HANDBOOK BEGINS HERE

(a) Example: An individual, who was sanctioned and left aid with his family after failing to participate in vocational education, contacts the CWD on July 1 to reapply for aid. His family is determined eligible for aid on July 5 and aid is granted to the family as of July 5; before aid can be granted for the sanctioned individual, he must cure his sanction. The individual signs his curing plan on July 5, participates in a vocational education program for 30 days, and successfully cures his sanction on August 3. If the individual is otherwise eligible, his cash aid is restored on August 1st (or as soon thereafter as possible, through a supplemental payment) as a county-initiated mid-quarter change pursuant to Section 44-316.331(c)(QR). Aid shall be retroactive to July 5th.

Response:

The Department has determined that sanctioned individuals who are having aid granted must be treated the same as individuals who are having aid restored. Therefore, under the Quarterly Reporting system, once the individual has cured the sanction, aid shall be restored to the first of the month following the date the individual contacted the county and requested to cure. No revisions will be made to the regulations based on this comment.

10. Comment:

3. Example (a) requires an applicant, who had been sanctioned when he was previously on aid, to sign a cure plan before he can receive aid. However, if at the time of application, the applicant has already completed the activity that he had failed to perform while previously on aid, or engaged in it for 30 days, that applicant should not have to sign a cure plan since he has already performed the cure. He is eligible for aid on the day that the CWD determines the family to be eligible since he has already done the activity that is required. Another example should be added to reflect this. We suggest the following.

“(b) Example: same as example (a) except at the time of application, the individual has already been participating in the vocational education that he had failed to do while previously on aid, for more than 30 days. Since the individual had completed the cure, there is no need to sign a cure plan, and the individual may be added to aid with the rest of the family. Since his family is determined eligible for aid on July 5, aid is granted to the family and him as of July 5.”

In the alternative, to recognize that the cure is completed, the regulation must provide that the county provide a cure plan at application, have it signed, and consider it completed.

Response:

The Department has determined that this suggestion goes outside of the scope of this regulations package and no revisions will be made to the regulations based on this comment.

Section 44-303 AID PAYMENTS-DEFINED

11. Comment:

Welfare and Institutions Code section 11453.2 requires counties to issue vendor payments for rent and utilities. Please clarify that counties can thus limit vendor payments to rent and utilities. We suggest the following language:

.34....A county shall establish when to begin to issue voucher or vendor payments after this three-month period in sanction status. This timeframe shall be included in a county’s written policies and procedures. Counties may choose to limit vendor payments to rent and utilities only.

Response:

The Department will revise this regulation to clarify that counties shall issue vendor and voucher payments for at least rent and utilities.

44-318 BEGINNING DATE OF AID

12. Comment:

This section should be corrected to reflect Welfare and Institutions Code section 11327.5, which provides that the sanction *shall terminate* when the individual has performed the activity.

.1 Beginning Date of Aid the BDA shall be: (Continued)

.13 Sanction/

Noncooperating person (Continued)

(QR) The first of the month in which an individual requests to comply with the requirement which caused that person to be excluded from the AU, after all conditions of eligibility have been met (see Section 44-316.331 (c)(QR). (Continued)

Response:

The Department has determined that Welfare and Institutions Code Section 11327.5(d) requires an individual to complete the requirements to cure a sanction for a sanction to be considered cured. According to The American Heritage College Dictionary (Fourth Edition, Boston: Houghton Mifflin, 2004), perform means “To begin and carry through to completion.” Revisions will be made to reflect that under the Quarterly Reporting system, once the individual has completed curing the sanction, aid shall be restored to the first of the month following the date the individual contacted the county and requested to cure.