

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)X4 4 (Chapter 4, Statutes of the Fourth Extraordinary Session of 2009) Sections 11320.3 and 11454.5, and reorganize the legal and regulatory requirements under which the California Work Opportunity and Responsibility to Kids (CalWORKs) program is operated. Renumbering of sections and amending of cross-references was not necessary in this instance.

Section 42-302.21(b)(3) and Section 42-712.474Specific Purpose:

These sections are being adopted to include the requirements for the new Welfare-to-Work exemption for individuals with young children and to clarify that this new exemption will also stop an individual's CalWORKs 60-month time clock. Both paragraphs become inoperative on July 1, 2011, as required by ABX4 4.

Factual Basis:

ABX4 4 added a new Welfare-to-Work participation and CalWORKs 60-month time limit exemption. This exemption applies to a parent or other relative who has primary responsibility for personally providing care to one child who is from 12 to 23 months of age, or two or more children who are under six years of age. An individual who meets any of these criteria shall be excused from Welfare-to-Work activities and have their time clock stopped for as long as they meet the exemption or until July 1, 2011, whichever comes first. This revision is necessary to implement Welfare and Institutions Code Section 11320.3(b)(7) and Section 11454.5(a)(7), as amended by ABX4 4.

Final Modifications:

Following the public hearing, these sections of the regulations language are being further amended to include the effective date of the new exemptions, July 28, 2009.

Second Final Modification:

As addressed in the Final Modification, an inadvertent error was made to Section 42-302.21(k) and is further amended to include the effective date of the new exemption, July 28, 2009 as amended in Section 42-302.21(b)(3).

Section 42-712.64

Specific Purpose:

This section is being adopted to further clarify that the new exemption for individuals with young children stops the individual's CalWORKs 60-month time clock. This paragraph becomes inoperative on July 1, 2011.

Factual Basis:

When an individual is granted the new Welfare-to-Work exemption for individuals with young children, as described above in Section 42-712.474, this exemption also stops their CalWORKs 60-month time clock for as long as they meet the exemption criteria or until July 1, 2011, whichever comes first. This revision is necessary to implement Welfare and Institutions Code Section 11454.5(a)(7), as amended by ABX4 4.

Final Modifications:

Following the public hearing, this section of the regulations language is being further amended to include the effective date of the new exemptions, July 28, 2009.

Section 42-302.21 (k) and Section 42-713.43

Specific Purpose:

These sections are being adopted to revise the program requirements for exemptions from the CalWORKs 60-month time limit when an individual receives good cause due to lack of supportive services. These paragraphs become inoperative on July 1, 2011.

Factual Basis:

Currently, when an individual is given good cause due to lack of supportive services, it is only an exemption from Welfare-to-Work participation. Due to the changes mandated in ABX4 4, this exemption now stops the individual's CalWORKs 60-month time clock for as long as they meet the exemption or through July 1, 2011, whichever comes first. This revision is necessary to implement Welfare and Institutions Code Section 11454.5(a)(6), as amended by ABX4 4.

Final Modifications:

Following the public hearing, MPP Section 42-302.21(k) of the regulations language is being further amended to include the effective date of the new exemptions, July 28, 2009. Section 42-713.43 already makes mention of the effective date and will remain the same.

b) Identification of Documents Upon Which Department Is Relying

Assembly Bill 4, (Chapter 4, Statutes of the Fourth Extraordinary Session of 2009).

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 or that has otherwise been identified and brought to the attention of CDSS 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.

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 #01 at the public hearing held on August 11, 2010 in Sacramento, California. Oral testimony was not presented; however, written comment was received during the 45-day comment period from Antoinette Dozier, Western Center on Law and Poverty. Written comment was also received from Anastasia Dodson, County Welfare Directors Association.

Ms. Dozier commented in the following manner:

General Comments

1. Comment:

I. The 2009-2010 enacted budget added two exemptions to the CalWORKs time-limit and a new CalWORKs time-limit.

Assembly Bill (AB) X4 4 (Chapter 4, Statutes of the Fourth Extraordinary Session of 2009) amends the CalWORKs Welfare-to-Work Program. CalWORKs allows an adult to receive cash aid for a total of 60 months. Welf. & Inst. Code § 11454(a). Any month in which the adult receives cash aid counts against that 60-month time

limit. There are, however, exemptions to the 60-month time limit. Under current law, any month in which certain exemption criteria exist is not counted as a month in which a CalWORKs recipient *receives* aid. *See* § 11454.5(a). Those exempt months, therefore, are not counted towards the CalWORKs recipient's 60-month time limit on aid. In other words, the recipient's 60-month time clock stops.

To the already existing exemptions, the legislature added two new, temporary exemption criteria. The 2009-2010 enacted budget adds exemptions from Welfare-to-Work (WTW) participation and the CalWORKs 60-month time clock for an adult participant who is the parent or caretaker relative who has primary responsibility for personally caring for a child who is from 12 to 23 months of age, or two or more children who are under six years of age. An exemption from the 60-month time clock can also be given to an adult participant who has been given a good cause exclusion from WTW participation due to a lack of necessary supportive services. These exemptions will become inoperative July 1, 2011.

During the same budgetary session, the legislature also added a new time limit that operates in conjunction with the 60-month time limit. Effective July 1, 2011, adult participants may receive up to 48 cumulative months of cash aid. When or if the adult receives 48 cumulative months of aid, the adult portion of the grant would be eliminated for 12 months and the family would receive only the children's portion of the grant. Welf. & Inst. Code §11454(e). After sitting out for 12 months, the adult if otherwise eligible, is added back to the family grant for the remaining 12 months of the adult's 60-month time limit. *See id.*

We are pleased that the proposed regulations exclude the new exemption criteria from the 60-month time limit. We would, however, urge you to add language to the regulation that clearly indicates that the exempted months do not count towards the new 48-month time limit.

Response:

The Department has not yet published regulations for the long-term reforms, so it is premature to reference the 48-month time limit when it is not yet in current regulations. Existing regulations and statute found at Manual of Policy and Procedures Section 42-302.21 and Welfare and Institutions Code Section 11454.5 currently provide that any exempt month is not considered a countable month toward the 60 month clock.

2. Comment:

II. The CalWORKs statutory scheme is silent as to whether the exempt months are counted towards the new 48-month time limit.

The time limit provisions in the CalWORKs statute detail the interact between the 48 and 60-month time limits, stating:

A parent or caretaker relative shall not be eligible for aid under this chapter when he or she has received aid under this chapter or from any state under the Temporary Assistance for Needy Families program (Part A (commencing with Section 401) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 601 et seq.) for a cumulative total of 60 months.

Welf. & Inst. Code §11454(a).

The 60-month benefit limit provided for in subdivision (a) shall apply, exempt that aid may not be received for more than 48 cumulative months in any 60-month period. The adult may return to the assistance unit 12 months after receiving aid for the 48 cumulative months. In the absence of a sanction pursuant to Section 11327.5, the full grant shall be restored at the time the adult returns to the assistance unit. This section shall become operative July 1, 2011.

Welf. & Inst. Code §11454(e)-(f). The statute further provides that certain exempt months do not count towards the 60-month time limit, specifically it provides:

11454.5 (a) Any month in which the following conditions exist shall not be counted as a month of receipt of aid for the purposes of subdivision (a) of Section 11454:...

(6) The recipient has been excused from participation for good cause pursuant to [a lack of supportive services as set forth in] paragraph (1) of subdivision (f) of Section 11320.3. This paragraph shall become inoperative on July 1, 2011.

(7) The recipient is exempt from participation due to caretaking responsibilities that impair the recipient's ability to be regularly employed, or is otherwise exempt, in accordance with [caretaking responsibilities of young children as set forth in] paragraph (7) of subdivision (b) of Section 11320.3. This paragraph shall become inoperative on July 1, 2011.

As evidenced by the language of the statute, the Legislature failed to address whether months associated with the new, temporary exemptions count towards the new 48-month time limit. As explained below, the only way for the statutory scheme to fulfill the purpose of the CalWORKs statute is if the exempt months are excluded from the 48-month time limit.

Response:

See response to item 1 above.

3. Comment:

III. The new exemptions should be excluded not only from the 60-month time limit but also from the 48-month time limit consistent with the purpose of the statute.

The proposed regulation must be consistent and not conflict with the purposes of the CalWORKs statute. Gov't Code §11342.2 ("[n]o regulation adopted is valid or effective unless consistent and not in conflict with the statute and reasonably necessary to effectuate the purpose of the statute"). The Legislature has maintained that the purpose of CalWORKs as follows: "The Legislature finds and declares that the family unit is of fundamental importance to society in nurturing its members, passing on values, averting potential social problems, and providing the secure structure in which citizens live out their lives. Each family unit has the right and responsibility to provide its own economic security by full participation in the work force to the extent possible..." Welf. & Inst. Code §11205. To this end, every county must administer the program "to achieve the greatest possible reduction of dependency and to promote the rehabilitation of recipients..." Welf. & Inst. Code § 11207. With these aims in mind, the WTW program is designed to provide employment and training services to adult participants to aid them in achieving economic self-sufficiency within the 60-month time limit. § 11322.7. Given the five-year time limit on aid for the adult in the household, it is critical that aided adults are able to participate in activities that lead to eventual self-sufficiency. To facilitate that participation, counties must provide necessary supportive services, such as childcare and transportation reimbursements, so that adults can fully participate in work and training activities. *See* § 11323.2.

AB X4 4 stops an adult participant's 60-month time clock because the Legislature recognized that counties would be unable to provide the necessary supportive services that allow adults to participate in WTW activities that could lead to eventual self-sufficiency. Welf. & Inst. Code § 11329.5 (c). In this respect, the draft regulations are consistent with the general purposes of the CalWORKs statute and the WTW program. As written, however, the proposed regulations conflict with the purposes of the CalWORKs statute because the exempt months could presumably count towards the 48-month time limit.

The adults forced to sit out during this time period are being deprived of the time and opportunity to participate in activities that would lead to self-sufficiency during the 48-month time limit. Counting months in which an applicant is unable to participate in activities cannot be justified as consistent with the purposes of the CalWORKs statute. Nor can considering the exempt months towards the 48-month time limit be reconciled with the intent of the WTW program. In the context of the

overall scheme of CalWORKs to encourage increased work and training opportunities and eventual self-sufficiency, adults given one of the exemptions should have their 48-month time clock stopped.

It is unmistakable that the driving force behind the legislature's enactment of the temporary exemptions was compelling fiscal concerns. Those compelling reasons, however, in no way obviate counties' duties to administer the program in a way that will lead to self-sufficiency within the time limits. In fact, in drafting AB X4 4, the Legislature made it clear that it wanted to provide counties with additional flexibility to address funding constraints, while avoiding any disruption to current participants. Welf. & Inst. Code § 11329.5 (d)-(f). Throwing adults off of aid without giving them a real opportunity to gain skills that could lead to self-sufficiency is contrary to the CalWORKs statutory scheme and the Legislature's intent.

We therefore urge you to include language in the regulation that clearly indicates that the exempt months stop the recipient's 48-month time limit.

Response:

See response to item 1 above. To further clarify, the exempt months will not count towards the CalWORK's 60-month time limit; however, once the individual reaches 48 countable months, the sit out period will begin.

4. Comment:

IV. The rationale for excluding exempt months from the 60-month time limit applies equally to the 48-month time limit.

As noted above, the statute provides that an adult is not in receipt of aid during certain exempt months. Welfare and Institutions Code Section 11454.5 (a) specifically provides "Any month in which the following [exemption] conditions exist shall not be counted as a month of *receipt of aid* for the purposes of [60-month time limit]." (Emphasis added). Because aid is not received during the exempt months, those months do not count towards the 60-month time clock. In effect, the time clock is stopped. The recipient's 48-month time clock should also stop because like with the 60-month time clock, only months in which an adult receives aid during the 60-month period counts toward the 48-month time limit. The time limits were amended to state, "that *aid may not be received* for more than *48 cumulative months in any 60-month period*. The adult may return to the assistance unit 12 months after *receiving aid for the 48 cumulative months*." See §114564 (e). The 48-month time limit specifically references aid received during the 60-month time period. But as we noted above, aid is not received during the exempt months. Here, too, because aid is not received during the exempt months, those months should not count towards the 48-month time limit.

Response:

See response to item 1 above.

5. Comment:

V. The draft regulations should include language that excludes the exempt months from the 48-month time limit.

We therefore respectfully request that the proposed regulation be revised as described below.

MPP 42-712.64. Being responsible for personally providing care to a child or children of a specific age, as described in Section 42-712.474. *Any month in which an individual is excused from participation to care for a young child shall not be taken into consideration as a month of receipt of aid in computing the 48-month time limit.* This paragraph shall become inoperative on July 1, 2011. (Revised text italicized).

MPP 42-713.43 Effective August 1, 2009, any month in which an individual is excused from participation for good cause due to a lack of supportive services, as specified in Section 42-713.21 shall not be counted toward the 60-month *or 48-month time limits*. This paragraph shall become inoperative on July 1, 2011. (Revised text italicized).

Response:

See response to item 1 above.

Ms. Dodson commented in the following manner:

General Comments

6. Comment:

Wanted to pass on a comment that we received late from a county about the proposed regs for short-term calworks reforms. Although the good cause (42-713.43) changes have a specific start date of 8/1/09, the regulations for the exemption for providing care to young children does not indicate the 8/1/2009 effective date.

<http://www.dss.cahwnet.gov/ord/PG2303.htm>

Response:

The effective date of AB X4 4 and the regulation changes, July 28, 2009, will be added to all sections that are affected. These sections include MPP § 42-302.21(b)(3), 42-712.474, 42-412.64, and 42-302.21(k).

g) 15-Day Renotice Statement

Pursuant to Government Code Section 11346.8, a 15-day renotice and complete text of modifications made to the regulations following the public hearing were made available to the public following the public hearing from September 23, 2010 to October 8, 2010. Written comment was received from Anastasia Dodson, County Welfare Directors Association.

Ms. Dodson commented in the following manner:

General Comments

7. Comment:

Hi just noticed that in the second date added to the regs, it reads July 2010-I believe it should be 2009?

Response:

CDSS agrees with the commenter. An inadvertent error was made and the date was corrected to be the same date as in the newly-amended Section 42-302.21(b)(3).