

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



October 29, 1997

ALL-COUNTY LETTER 97-69

TO: ALL COUNTY WELFARE DIRECTORS

REASON FOR THIS TRANSMITTAL

- State Law Change
 Federal Law or Regulation Change
 Court Order or Settlement Agreement
 Clarification Requested by One or More Counties
 Initiated by CDSS

SUBJECT FRAUD PENALTY PROVISIONS - CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO KIDS (CalWORKs) PROGRAM

REFERENCE : ASSEMBLY BILL (AB) 1542, CHAPTER 270, STATUTES OF 1997

The purpose of this letter is to provide implementation instructions to the County Welfare Departments (CWDs) on the changes in the penalty requirements as stated in AB 1542, (Chapter 270, Statutes of 1997). AB 1542 allows the California Department of Social Services (CDSS) to implement these changed provisions initially through the All County Letter (ACL) process in order to meet the January 1, 1998 implementation date. The CDSS will be adopting emergency regulations no later than July 1, 1998. The CDSS will issue additional ACL's providing instructions for implementing other provisions of AB 1542.

IMPOSING PENALTIES

Effective January 1, 1998, changes to Welfare and Institutions Code Section 11486 provide the following penalty periods for individuals in the CalWORKs program found to have committed the listed fraudulent acts under the specified circumstances. Consistent with current regulation, CWDs shall not take the individual's needs into account when determining the Assistance Unit's (AU) financial eligibility and grant amount. Any resources and income of the disqualified individual will be considered available to the AU (ACL 92-40, dated April 15, 1992). Penalized individuals are **not** subject to voucher/vendor payments.

PENALTIES**Permanent penalty for:**

- individuals found in state or federal court, or pursuant to an administrative hearing decision, who have committed any of the following acts:

- made fraudulent statements or representation regarding their place of residence, in order to receive assistance simultaneously, from two or more states or counties,
 - submitted false documents for nonexistent or ineligible children,
 - received cash benefits in excess of \$10,000 through fraudulent means; or
- individuals convicted of a felony fraud, in a state or federal court, for theft of \$5,000 or more; or
- individuals with a third conviction of fraud in a state or federal court, or pursuant to an administrative hearing decision; or
- individuals found in state or federal court, or pursuant to an administrative hearing decision, who have committed upon **the third occasion** any of the following acts:
 - making false or misleading statement or misrepresenting, concealing, or withholding facts,
 - committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity; or
- individuals found in state or federal court, or pursuant to an administrative hearing decision, who have committed upon **the third occasion** any of the following acts:
 - having submitted more than one application for the same type of aid for the same period of time, for the purpose of receiving more than one grant of aid, in order to establish or maintain the family's eligibility for aid, or increasing, or preventing a reduction in the amount of that aid.

Five-year penalty for:

- individuals convicted of a felony fraud in a state or federal court, not meeting permanent penalty criteria and the theft is more than \$2,000, but less than \$5,000.

Four-year penalty for:

- individuals found in state or federal court, or pursuant to an administrative hearing decision, who have committed upon **the second occasion** any of the following acts:
 - having submitted more than one application for the same type of aid for the same period of time, for the purpose of receiving more than one grant of aid in order to establish or maintain the family's eligibility for aid, or increasing, or preventing a reduction in the amount of the aid.

Two-year penalty for:

- individuals convicted of a felony fraud in a state or federal court, not meeting permanent penalty criteria and the theft is less than \$2,000; or
- individuals found in state or federal court, or pursuant to an administrative hearing decision, who have committed upon **the first occasion** any of the following acts:
 - having submitted more than one application for the same type of aid, for the same period of time, for the purpose of receiving more than one grant of aid in order to establish or maintain the family's eligibility for aid, or increasing, or preventing a reduction in the amount of that aid.

Twelve-month penalty for:

- individuals found in state or federal court, or pursuant to an administrative hearing decision, who have committed upon **the second occasion** any of the following acts:
 - making false or misleading statement or misrepresenting, concealing, or withholding facts;
 - committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

A six-month penalty for:

- individuals found in state or federal court, or pursuant to an administrative hearing decision, who have committed upon **the first occasion** any of the following acts:
 - making a false or misleading statement or misrepresenting, concealing, or withholding facts;
 - committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

IMPLEMENTING INSTRUCTIONS

CDSS is currently evaluating and will advise CWD's before the January 1, 1998 implementation date, whether these penalty changes are to be applied to all convictions occurring on or after January 1, 1998, even if the offense occurred prior to implementation.

CDSS will repeal and/or amend Division 20, Sections 351 (I) and 353 of the CDSS Manual of Policy and Procedures to reflect the changes in penalty definitions and periods.

INFORMING REQUIREMENTS

The Important Information for Applicants and Recipients, coversheet to the JA 2 and SAWS 2, Statement of Facts, will be revised to provide notice of the new/changed penalties to recipients. You will receive these forms under separate cover.

NOTICE OF ACTION

A Notice of Action (NOA) will be required to notify the applicant/recipient of the penalty reason and period. Consistent with existing regulation, any penalty period imposed for the above-mentioned acts and circumstances shall not be reversed via the state hearing process.

DATA COLLECTION/TRACKING

Consistent with existing requirements, disqualifications must be reported on the DPA 266 (Fraud Activity Report) Part D. Also, the CWD must continue to report pertinent penalty data to the CDSS via the DPS 524 for tracking purposes. CWDs should complete and submit the Disqualified Recipient Report (DPS 524) according to existing instructions found on the back of the form.

CONTACTS

Any questions regarding this letter may be directed to Judy Hale of the Fraud Bureau at (916) 445-0031.

Sincerely,

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division