

FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety or general welfare, within the meaning of Government Code section 11346.1. Further, Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law (OAL), OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6. To determine the OAL five day comment period check <http://www.oal.ca.gov/> often.

DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

1. The Legislature enacted the Annual Reporting/Child Only (AR/CO) provisions of Senate Bill (SB) 1041 (Chapter 47, Statutes of 2012) on June 27, 2012 to be effective October 1, 2012. The Legislature enacted the Earned Income Disregard (EID) provisions of SB 1041 on June 27, 2012 to be effective October 1, 2013. These emergency regulations replaced the previous Quarterly Reporting (QR) System with an AR/CO System in the California Work Opportunity and Responsibility to Kids (CalWORKs) program for cases with no eligible adult in the Assistance Unit (AU). In addition, these emergency regulations restored the EID to up to \$225 of any unused amount of the \$225 Disability-Based Unearned Income (DBI) disregard plus 50 percent of the remaining earned income.

SB 1041 reduced the reporting requirements in CalWORKs by decreasing the number of periodic reports from five to one report per year. SB 1041 mandates that AR/CO be implemented in a cost-effective manner that promotes compatibility between the CalWORKs and CalFresh programs. Further, SB 1041 allows CalWORKs recipients to retain an increased amount of earned income.

2. Delay in the implementation of these regulations would conflict with the statutory directive found in SB 1041, Section 56 that emergency regulations be adopted:
 - (a) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made pursuant to sections 11265.45, 11265.46, 11265.47, 11265.48, 11320.3, 11322.63, 11322.8, 11322.85, 11322.86, 11322.87, 11451.5, and 11454.5 of the Welfare and Institutions Code, as amended or added by this act through all-county letters or similar instructions from the director until regulations are adopted. The department shall adopt emergency regulations implementing these provisions no later than July 1, 2014. The Department of Social Services may readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, any emergency regulation previously adopted under this section.

(b) The initial adoption of regulations pursuant to this section and one re-adoption of emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the one re-adoption of emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The initial emergency regulations and the one re-adoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations shall be adopted.

3. Therefore, in order to preserve the public peace, health, safety, and general welfare of the State of California, these regulations are to be adopted on an emergency basis.
4. As permitted in Section 56 of SB 1041, the department is re-adopting the original emergency regulations to allow additional time to complete the regulatory process. Due to the volume of revisions included in these regulations, the wide scope of this project, and the substantial impacts of conversion from QR to AR/CO in program administration across the state of California in general and to clients in particular, additional time is necessary to complete the regulatory process.

INFORMATIVE DIGEST

SB 1041 (Chapter 47, Statutes of 2012) replaces the QR system with an Annual Reporting system in the CalWORKs program for certain CalWORKs child-only cases. These cases are those in which there is no eligible adult in the AU and are referred to as AR/CO cases. CalWORKs is California's version of the federal Temporary Assistance for Needy Families Program. The bill mandated that AR/CO be implemented October 1, 2012. This change reduces the reporting burden on recipients and reduces the administrative burden on county workers by only requiring one report per year during the annual redetermination.

Subsequent to the enactment of AR/CO, the Legislature enacted AB 6, Semi-Annual Reporting (SAR), to be effective no later than October 1, 2013. SAR also replaces the QR system. The AR/CO provisions within this regulation package include a tandem format for the operation of SAR and AR/CO. This is because the systems are parallel reporting systems and recipients may transition between SAR and AR/CO. Regulations that are operative under Semi-Annual Reporting are labeled (SAR). Regulations that are operative under Annual Reporting Child Only are labeled (AR/CO). Regulations not labeled are applicable to both reporting systems and therefore remain unchanged.

In addition to the AR/CO provisions of SB 1041, this regulation package also includes the increase of the EID from up to \$112 to up to \$225 of any unused amount of the \$225 DBI disregard plus 50 percent of the remaining earned income. SB 1041 mandated that the increase to the EID be implemented by October 1, 2013. The change allows CalWORKs recipients to retain an increased amount of earned income.

Assembly Bill (AB) 1094 (Chapter 554, Statutes of 2013) expands the definition of DBI to include Veterans Disability Compensation benefits as a new category. DBI is exempt from the

calculation of the income of the AU not to exceed \$225. If DBI exceeds \$225, the additional amount will be counted dollar for dollar.

This regulation package also contains numerous clean-up and technical changes, including repealing outdated QR regulations, correcting outdated terms and references, and updating the Minimum Basic Standard of Adequate Care levels as of July 1, 2013 and Maximum Aid Payment levels as of March 1, 2014.

The benefits anticipated from this regulatory action include simplifying the reporting responsibilities for both CalWORKs recipients and county eligibility workers. In addition, this regulatory action will benefit families receiving CalWORKs by allowing them to utilize more of their income to better meet basic needs while becoming self-sufficient.

The Department considered other possible related regulations in this area, and we find that these are the only regulations dealing in this subject area (of CalWORKs reporting systems), and therefore, the Department finds that these proposed regulations are compatible and consistent with the intent of the Legislature in adopting SB 1041, AB 1094 and AB 85, as well as with existing state regulations.

The following forms are incorporated by reference. These forms are not printed in the CDSS Manual of Policies and Procedures because it would be cumbersome and impractical; however, they are readily available from CDSS:

AR 2 (11/13) – Reporting Changes for CalWORKs and CalFresh

AR 2 SAR (11/13) – Reporting Changes for CalWORKs and CalFresh

AR 3 (12/12) – Mid-Year Status Report for CalWORKs and CalFresh

CW 2211 (9/13) – Your CalWORKs Reporting Rules Have Changed

CW 2212 (9/13) – The Rules for Your CalWORKs Case Have Changed

TEMP AR 1 (2/13) – New Reporting Requirements for CalWORKs and CalFresh

COST ESTIMATE

1. Costs or Savings to State Agencies: There is approximately \$173,328,000 in costs for fiscal year (FY) 2014-15 that is already reflected in the 2014 May Revision Estimate.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: None
3. Nondiscretionary Costs or Savings to Local Agencies: There is approximately \$1,210,000 in costs for FY 2014-15 that is already reflected in the 2014 May Revision Estimate.
4. Federal Funding to State Agencies: There is approximately \$40,493,000 in costs for FY 2014-15 that is already reflected in the 2014 May Revision Estimate.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not on school districts. There are no "state-mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs associated with the

implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the Government Code.

AUTHORITY AND REFERENCE CITATIONS

The 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 11450.025, 11265.45, 11265.46, 11265.47 and 11265.48, Welfare and Institutions Code.