

INITIAL STATEMENT OF REASONS

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

The Fry v. Saenz lawsuit challenged state law (Welfare and Institutions Code Section 11253) prohibiting the granting of California Work Opportunity and Responsibility to Kids (CalWORKs) cash aid to children who have reached 18 years of age, unless the child can reasonably be expected to graduate before age 19. The lawsuit claimed that this provision violates the American with Disabilities Act because it discriminates against recipients who would not graduate before age 19 due to a disability. The court ordered the California Department of Social Services (CDSS) to implement a reasonable modification of the law to provide CalWORKs cash aid to otherwise eligible 18-year-olds who are attending school full-time and are not expected to graduate before age 19 due to a disability.

To comply with the Judgment and Peremptory Writ of Mandate, CDSS has set forth the proposed regulatory language as follows: to provide cash aid to specified 18-year-olds who are not expected to graduate before age 19 because they are considered disabled under the proposed regulations. The child shall continue to be eligible for cash aid until he/she graduates, turns 19, or stops attending school full-time, whichever occurs first. Prior to this court order, otherwise eligible 18-year-olds not expected to graduate before age 19 were ineligible for cash aid (regardless of the reason for the delay in graduation), and if that child was the only eligible child, this would render the family ineligible for CalWORKs. These regulations are also being amended to include the standards for identifying a disability that would qualify the child for continued eligibility for CalWORKs.

The standards for being considered disabled are as follows:

1. If a past or present 18-year-old recipient of SSI/SSP benefits attends school full-time he/she shall continue to be considered an eligible child in his/her parent/caretaker relative's Assistance Unit and aid shall continue for the otherwise eligible parent/caretaker relative until the child graduates, turns 19 or stops attending school full-time, whichever occurs first. Verification may include a copy of a Social Security determination letter.
2. A child who receives or has in the past received services through a Regional Center Program pursuant to the Lanterman Act shall be considered disabled. Otherwise eligible 18-year-olds who attend school full-time and are considered disabled under this criterion shall continue to be eligible for CalWORKs benefits until they graduate, turn 19 or stop attending school full-time, whichever occurs first.

Verification may include a statement from the Regional Center stating that the child is receiving or has in the past received services.

3. A child who receives services at school in accordance with his/her Individual Education Program (IEP) or Section 504 Accommodation Plan, or has in the past received such services, shall be considered disabled. Otherwise eligible 18-year-olds who attend school full-time and are considered disabled under this criterion shall continue to be eligible for CalWORKs benefits until they graduate, turn 19 or stop attending school full-time, whichever occurs first. Verification may include a copy of the child's IEP or Section 504 Plan/Section 504 Accommodation Plan.
4. The parent/caretaker relative shall provide independent verification of a current or past disability by a health care provider or a trained, qualified learning disabilities evaluation professional, or authorizes the county to obtain information to verify the child's disability. Otherwise eligible 18-year-olds who attend school full-time and are considered disabled under this criterion shall continue to be eligible for CalWORKs benefits until they graduate, turn 19 or stop attending school full-time, whichever occurs first.

Section 42-101.3

Specific Purpose:

This section is adopted to establish the standard for providing aid to the parent/caretaker relative of a past or present 18-year-old recipient of SSI/SSP benefits who attends school on a full-time basis and is not expected to graduate by age 19.

Factual Basis:

This revision is necessary to comply with the Peremptory Writ of Mandate dated July 7, 2004, which requires CDSS to provide CalWORKs cash aid to a parent/caretaker relative of an 18-year-old child who is a present or past recipient of SSI/SSP benefits, until the child graduates, turns 19 or stops attending school full-time, whichever occurs first.

Section 42-101.31

Specific Purpose:

This section is adopted to establish the procedure to verify if a past or present 18-year-old recipient of SSI/SSP benefits is attending school full-time in accordance with Manual of Policies and Procedures (MPP) Section 40-105.5 (b).

Factual Basis:

This revision is necessary to comply with the Peremptory Writ of Mandate dated July 7, 2004, which requires CDSS to provide CalWORKs cash aid to otherwise eligible parent/caretaker relative of an 18-year-old who is attending school full-time and is not

expected to graduate before age 19 and is considered disabled under the criteria set forth in proposed MPP Section 42-101.3.

Section 42-101.4

Specific Purpose:

This section is adopted to establish the standard for providing aid to an 18-year-old child who has not completed high school and who currently receives or has received in the past services from the Regional Center Program pursuant to the Lanterman Act.

Factual Basis:

This revision is necessary to comply with the Judgment and Peremptory Writ of Mandate dated July 7, 2004, which requires CDSS to provide CalWORKs cash aid to an otherwise eligible 18-year-old who is attending school full-time, is not expected to graduate before age 19 and is considered disabled under the criteria set forth in proposed MPP Section 42-101.4.

Section 42-101.41

Specific Purpose:

This section is adopted to establish the procedure to verify if an 18-year-old child who has not completed high school has received or currently receives services from the Regional Center Program pursuant to the Lanterman Act.

Factual Basis:

This revision is necessary to comply with the Judgment and Peremptory Writ of Mandate dated July 7, 2004, which requires CDSS to provide CalWORKs cash aid to an otherwise eligible 18-year-old who is attending school full-time, is not expected to graduate before age 19 and is considered disabled under the criteria set forth in proposed MPP Section 42-101.4.

Section 42-101.5

Specific Purpose:

This section is adopted to establish the standard for providing aid to an 18-year-old child who has not completed high school and who currently receives or has in the past received services at school in accordance with his/her IEP or Section 504 Plan/Section 504 Accommodation Plan.

Factual Basis:

This revision is necessary to comply with the Judgment and Peremptory Writ of Mandate dated July 7, 2004, which requires CDSS to provide CalWORKs cash aid to an otherwise eligible 18-year-old who is attending school full-time, is not expected to graduate before age 19 and is considered disabled under the criteria set forth in proposed MPP Section 42-101.5.

Section 42-101.51

Specific Purpose:

This section is adopted to establish the procedure to verify if an 18-year-old child who has not completed high school currently receives or has in the past received services pursuant to an IEP or a Section 504 Plan/Section 504/Accommodation Plan.

Factual Basis:

This revision is necessary to comply with the Judgment and Peremptory Writ of Mandate dated July 7, 2004, which requires CDSS to provide CalWORKs cash aid to an otherwise eligible 18-year-old who is attending school full-time, is not expected to graduate before age 19 and is considered disabled under the criteria set forth in proposed MPP Section 42-101.5.

Section 42-101.6

Specific Purpose:

This section is adopted to establish the standard for providing aid to an 18-year-old child who has not completed high school when verification of criteria in MPP Sections 42-101.3, 42-101.4, or 42-101.5 is not available. It is also adopted to establish the procedure for the parent/caretaker relative to verify the child's disability by providing or authorizing the county welfare department to obtain independent verification from a health care provider or a trained, qualified learning disabilities evaluation professional.

Factual Basis:

This revision is necessary to comply with the Judgment and Peremptory Writ of Mandate dated July 7, 2004, which requires CDSS to provide CalWORKs cash aid to an otherwise eligible 18-year-old who is attending school full-time, is not expected to graduate before age 19 and is considered disabled under the criteria set forth in proposed MPP Section 42-101.6.

b) Identification of Documents Upon Which Department Is Relying

Fry v. Saenz Judgment and Peremptory Writ of Mandate dated July 7, 2004

Fry v. Saenz 98 Cal.App.4th 256

All County Letter No. 04-33, dated August 27, 2004

All County Letter No. 04-50, dated November 18, 2004

c) Local Mandate Statement

These regulations do not impose a mandate upon local agencies or school districts. There are “state-mandated local costs” in these regulations which do not 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 Fry v. Saenz, (Sacramento County Superior Court), Case Number 00CS01350, Judgment and Peremptory Writ of Mandate, July 7, 2004.

d) Statement of Alternatives Considered

CDSS must determine 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 made an initial determination 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.