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Legislative Counsel of California

GEORGE H. MURPHY

Sacramento, California
October 26, 1971

Honorable Anthony C. Beilenson
Senate Chamber

Welfare - #20696

Dear Senator Beilenson:

QUESTION

You have stated that the Department of Social Welfare has by telegram informed the county departments that Section 11267 of the Welfare and Institutions Code provides a 150% gross income limitation to the extent permitted by federal law as a condition of initial and continuing eligibility and directed the county departments to identify such cases pending further direction. You have asked whether the county department may include the assistance grant in total gross income for the purpose of such code section since the department did not specify that such grant be excluded.

OPINION

In our opinion the county department may not include the assistance grant in total gross income for the purposes of Section 11267 even though the department did not specify that such grant be excluded.

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ANALYSIS

Section 11267 provides as follows:

"11267. To the extent permitted by federal law and regulations, no child or family is eligible to receive aid under this chapter if the total gross income, exclusive of grant payment, prior to any deductions available to such child or family exceeds 150 percent of the minimum basic standard of adequate care applicable to such child or family."

That section specifically excludes the grant payment in determining the total gross income. The department is required to establish regulations and general policies affecting the purposes, responsibilities and jurisdiction of the department and which are consistent with law and necessary for the administration of public social services (W. & I.C. Secs. 10553, 10554, 10604).

The county welfare departments are required to administer public social services except for the control of administering the payment of grants for all aid programs (W. & I.C., Sec. 11050) pursuant to applicable laws and in the case of public social services for which federal or state funds are provided subject to the regulations of the department (W. & I.C., Secs. 10800, 10803 and 10809).


Under the facts, the department directed the county department to identify public assistance recipients whose gross income exceeded the 150 percent limitation contained in Section 11267. Such a direction is consistent with that section. Any further specification of the specific exclusion of the assistance grant from the gross income is unnecessary since it is clearly stated in Section 11267 (see W. & I.C. Sec. 10554).

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In administering public social services the counties are required to follow the law and regulations of the department. Since the law requires the exclusion of the assistance grant in the determination of the recipient's gross income limitation it is our opinion under the facts presented above that the county department may not include the assistance grant in total gross income for the purposes of Section 11267 even though the department did not specify that such grant be excluded.

Very truly yours,

George H. Murphy
Legislative Counsel

By 
Mary Shaw
Deputy Legislative Counsel

MS:lm

SB 796 (Loans or Grants to Undergraduate Students)

Sec. 21. Section 11008.7 is added to the Welfare and Institutions Code, to read:

11008.7. To the extent permitted by federal law the value of any loan or grant to any undergraduate student made or insured under any program administered by the State Scholarship and Loan Commission or a college accredited by the Western Association of Schools and Colleges shall not be considered in determining eligibility or the amount of the grant.

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE
(Pursuant to Government Code Section 11180.1)

SDSW Regulation
Filed 9/24/71

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION AS INCOME 44-111
(Continued)

AB
APSB
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.43 Loans - The following loans are not considered as income or resources:

.431 Loans made under Title III of the Federal Economic Opportunity Act (Special Programs to Combat Poverty in Rural Areas).

.432 Loans or grants to undergraduate students made or insured under any program administered by the State Scholarship and Loan Commission or a college accredited by the Western Association of Schools and Colleges when the conditions under which they are obtained and used prevent their use for current living costs.

.433 Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Federal Commissioner of Education.

.434 Any other grant or loan which is not available to meet current needs.

.44 Casual Income and Income from An Inconsequential Resource

.441 The first sixty dollars (\$60) per quarter of casual income and income from an inconsequential resource which is received infrequently or irregularly is considered exempt from consideration as income. (See Section 44-101.4.)

DO NOT WRITE IN THIS SPACE

Effective 10/1/71