Jack Horton
Chief Deputy
James L. Ashford
Harvey J. Foster
John T. Studebaker
Daniel A. Weitzman
David D. Alves
John A. Corzine
C. David Dickerson
Robert Cullen Duffy
Robert D. Gronke
Michael J. Kersten
James A. Marsala
Robert G. Miller
Tracy O. Powell II
Marguerite Roth
Michael H. Upson
Christopher Zirkle
Principal Deputies

State Capitol, Suite 3021
Sacramento, CA 95814-4996
(916) 445-3057
Telecopier: (916) 322-0769

Legislative Counsel of California

BION M. GREGORY

Gerald Ross Adams
Martin L. Anderson
Paul Antilla
Hema Rao Anwar
Chares C. Asbill
Joe J. Ayala
Raneene P. Belisle
Lara K. Bierman
Diane F. Boyer-Vine
Ann M. Burastero
Eileen J. Buxton
Gwynnae L. Byrd
Edward Ned Cohen
Sarajane Cuthbertson
Emilia Cutrer
Ben E. Dale
J. Christopher Dawson
Jeffrey A. DeLand
Clinton J. deWitt
Frances S. Dorbin
Maureen S. Dunn
Sharon R. Fisher
Clay Fuller
Patricia R. Gates
Debra Zidich Gibbons
Shira K. Gilbert
Sonya Anne Grant
Alvin D. Gress
Scott Hallabrin
Maria Hilakos Hanke
Jana T. Harrington
Baldev S. Heir
Thomas R. Heuer
Lori Ann Joseph
David B. Judson
Michael R. Kelly
Eve B. Krotinger
Sheila R. Kuntz
Aubrey LaBrie
L. Erik Lange
Felicia A. Lee
Victoria K. Lewis
Diana G. Lim
Jennifer Loomis
Romulo I. Lopez
Kirk S. Louie
Mariana Marin
Francisco A. Martin
Peter Melnicoe
John A. Moger
Abel Munoz
Donna L. Neville
Sharon Reilly
Michael B. Salerno
Keith T. Schulz
William K. Stark
Jessica L. Steele
Ellen Sward
Mark Franklin Terry
Jeff Thom
Richard Thomson
Elizabeth M. Warf
Richard B. Weisberg
Thomas D. Whelan
Jack G. Zorman

Deputies

Sacramento, California

March 20, 1996

Honorable Joe Baca
5119 State Capitol

AFDC Conditions of Eligibility - #34532

Dear Mr. Baca:

QUESTION

Is a county welfare department or the State Department of Social Services presently authorized to limit eligibility for aid under the Aid to Families with Dependent Children program more restrictively than the eligibility requirements set forth in existing statutes?

OPINION

Neither a county welfare department nor the State Department of Social Services is presently authorized to limit eligibility for Aid to Families with Dependent Children program more restrictively than the eligibility requirements set forth in existing statutes.

ANALYSIS

By way of background, the Aid to Families with Dependent Children (AFDC) program is a state program under which counties have a mandatory duty imposed by statute to pay aid to AFDC families in accordance with the provisions of Chapter 2 (commencing with Section 11200) of Part 2 of Division 9 of the

Welfare and Institutions Code[1] (Ramos v. County of Madera, 4 Cal. 3d 685, 694). The program has been described by the court in Shaw v. McMahon, 219 Cal. App. 3d 973, as follows:

> "The AFDC program was established in 1935 for the purpose of providing benefits to families whose children were needy because of the death, absence or incapacity of a parent. (42 U.S.C. §§ 601, 606(a); Batterton v. Francis (1977) 432 U.S. 416, 418-420 [53 L. Ed. 2d 448, 452-453, 97 S. Ct. 2399].) This program which is known in California as AFDC-Family Group (AFDC-FG) provides aid only for single-parent families or families where one of the parents is incapacitated. In 1961, Congress adopted a supplemental program to allow states to provide benefits for two-parent families in which the children became needy due to the unemployment of the parents. The latter program is called AFDC-Unemployed Parent (AFDC-U). (42 U.S.C. § 607; 45 C.F.R. § 233.100; Califano v. Westcott (1979) 443 U.S. 76, 79-80 [61 L. Ed. 2d 382, 387, 99 S. Ct. 2655].)
>
> "California enacted legislation to participate in both the federal AFDC-FG (Welf. & Inst. Code § 11250) and the federal AFDC-U (§ 11201, subd. (a)(1)). In addition, the Legislature decided to provide benefits to all needy families with unemployed parents regardless of whether the federal standards are met. This entirely state-funded program is known as state-only AFDC-U (§§ 11315, 11201, subd. (a)(2)). Thus, California provides three AFDC programs: federal AFDC-FG, federal AFDC-U, and state-only AFDC-U.
>
> "(1) While the state is obligated to comply with the federal laws and regulations to receive federal funds regarding programs jointly administered with the federal government (42 U.S.C. § 604(a); Lukhard v. Reed (1987) 481 U.S. 368 [95 L.Ed. 2d 328, 107 S. Ct. 1807]), it is free to adopt more liberal eligibility standards with respect to the state-only AFDC-U program (Engleman v. Amos (1971) 404 U.S. 23, 24 [30 L.Ed.2d 143, 144, 92 S. Ct. 181]; Darces v. Woods (1984) 35 Cal.

---

[1] All further section references are contained in the Welfare and Institutions Code, unless otherwise specified.

> 3d 871, 895 [201 Cal. Rptr. 807, 679 P. 2d 458].) The statutory scheme adopted in California provides that under the state-only AFDC-U program the family is eligible for unemployment benefits for a limited time of three months even if the parent meets only some, but not all, criteria of federal unemployment (i.e., upon showing that the parent is not working or employed only part time, seeks unemployment or participates in a training program, applies for unemployment benefits, does not refuse a bona fide employment offer without good cause, etc). (§ 11201, subd. (b).)" (219 Cal. App. 3d 975-976.)

As stated above, the administration of public social services, including the AFDC program, in each county of the state is expressly declared to be a county function and responsibility to be discharged, subject to certain conditions, by the boards of supervisors of the respective counties (Secs. 10800, 11207). However, each county is merely a political subdivision of state government, exercising only the powers of the state, granted by the state, created for the purpose of advancing the policy of the state at large for purposes of political organization and civil administration, in matters of finance, education, provision for the poor, military organization, the means of travel and transport, and expressly for the general administration of justice (County of Marin v. Superior Court, 53 Cal. 2d 633, 638). It is well established that the entire lawmaking authority of the state, except the people's right of initiative and referendum, is vested in the Legislature, and that body may exercise any and all legislative powers that are not expressly or by necessary implication denied to it by the Constitution (Dean v. Kuchel, 37 Cal. 2d 97, 104). A county board of supervisors has no inherent powers and can exercise only those powers expressly granted it by the Constitution or statutes and those necessarily implied therefrom (Hicks v. Board of Supervisors, 69 Cal. App. 3d 228, 242). We conclude, therefore, that the counties may implement the AFDC program only to the extent authorized by the Legislature. The Legislature has not authorized counties to limit eligibility for the AFDC program more restrictively than those limitations set forth in state statutes.

Our inquiry turns then to the authority of the State Department of Social Services to impose additional limitations upon eligibility for the AFDC program.

Although the counties are specifically mandated to administer the AFDC program as discussed above, the general guidelines for the operation of the AFDC program are established by the State Department of Social Services, which is the single agency designated by the Legislature with full power to supervise

the administration of this state's AFDC program (see Sec. 10600). It is well-settled that administrative agencies possess both the authority expressly granted by statute and those powers that are necessarily or fairly implied or incidental to that authority (Dickey v. Raisin Proration Zone No. 1, 24 Cal. 24 796, 810, cert. den. 89 L. Ed. 1424, reh. den. 89 L. Ed. 2004; see also First Industrial Loan Co. v. Daugherty, 26 Cal. 2d 545, 550). However, an administrative agency may validly act only within the scope of statutory authority to do that which is reasonably necessary or appropriate to the interests or purposes of the statute (First Industrial Loan Co. v. Daugherty, supra, at 550). When an administrative agency acts in excess of, or in violation of the powers conferred on it, the action taken is void (City and County of San Francisco v. Padilla, 23 Cal. App. 3d 388, 400).

The Legislature has adopted specific standards for eligibility under the AFDC program in state statutes (see Secs. 11250 and following). The Legislature has not authorized the department to impose more restrictive limitations on the eligibility of applicants for AFDC that exceed those stated in the legislative enactments contained in Section 11250 and the following sections.

The Legislature has enacted Section 11003, which provides:

> "11003. If the United States Department of Health, Education, and Welfare issues a formal ruling that any section of this code relating to public assistance cannot be given effect without causing this state's plan to be out of conformity with federal requirements, the section shall become inoperative to the extent that it is not in conformity with federal requirements." (Emphasis added.)

The Legislature, in Section 11003, by making nonconforming code sections inoperative, has provided the department with a certain latitude in the application of existing law in implementing the AFDC program. However, Section 11003 refers to conformity with federal requirements, and not to any permissive provisions of federal law. In this regard, the state is required to comply with federal laws and regulations in order to receive federal funds regarding programs jointly administered with the state and federal governments (42 U.S.C.A. Sec. 604(a); Lukhard v. Reed, 95 L. Ed. 2d 328; see also Shaw v. McMahon, 219 Cal. App. 3d 973, 976). Although the AFDC program is elective, once a state chooses to join, its plan must comply with the mandatory requirements of federal law and regulations (see County of Alameda v. Carleson, 5 Cal. 3d 730, 739). Eligibility for

welfare assistance under the federally aided AFDC program must be measured by federal standards (Carleson v. Remillard, 32 L. Ed. 2d 352; Hypolite v. Carleson, 32 Cal. App. 3d 979, cert. den. 39 L. Ed. 2d 492). While the states have a great deal of autonomy in determining the standard of needs commensurate with actual need for welfare recipients and to determine the level of benefits actually paid, those states participating in the federal AFDC program may not impose eligibility requirements that would exclude persons who are eligible under federal law (Mitchell v. Swoap, 1973, 35 Cal. App. 3d 879). We conclude, therefore, that Section 11003 is limited to those sections that do not conform to federal requirements, and does not apply to any provisions of federal law that merely authorize states to take some particular action with respect to public assistance programs.

Thus, neither a county welfare department nor the State Department of Social Services is authorized, without further legislation, to limit eligibility for aid under the Aid to Families with Dependent Children program more restrictively than the eligibility requirements set forth in existing statutes.

Very truly yours,

Bion M. Gregory
Legislative Counsel

By
Charles C. Asbill
Deputy Legislative Counsel

CCA:tr