COALITION OF CALIFORNIA
WELFARE RIGHTS
ORGANIZATIONS, INC.

CCWRO

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# Retroactive Child Care Regulations

The 2002-2003 State Budget contained a child care provision. This provision was placed in AB 444, which is commonly known as the Budget Trailer Bill. This child care provision had nothing to do with the budget, but it was a convenient way of circumventing the process to enact legislation.

The manipulation of the process was requested by Los Angeles County welfare bureaucrats who wanted to limit retroactive child care to 30 days. Los Angeles County often refuses to accept and process child care requests. When a participant finally files for a hearing and gets retroactive relief, because they were being ripped off by the Los Angeles County DPSS bureaucrats, the bureaucrats are ORDERED to repay all of the child stolen from the CalWORKs recipients. Well, the LA DPSS thieves did not like getting caught. So they lobbied and get a new Section in the Welfare and Institutions Code §11323.3., which is Section 34 of AB 444.

This section provides that the Department shall provide CalWORKs applicants and recipients with a written notice at application and when the CalWORKs recipient signs the original or amended Welfare to Work plan.

The bill also provides that child care providers shall be paid promptly.

Finally the bill requires that retroactive child care is limited to 30 days from the date of the request, provided that the CalWORKs recipients has received a notice of availability of child care.

Subsection (e) provides that DSS shall adopt regulations to implement this section.

The proposed regulations will be considered at a public hearing on August 20, 2003. Persons interested may download the proposed regulations from the internet at www.dss.cahnet.gov/ord.

Our review of the regulations discovered that the regulatory package ignores the intent of the Legislature in subsection (a) of Section 11323.2 that states: "...child care providers shall be promptly paid for their services to eligible families."

There is no proposed regulation that defines "promptly". It should be noted that most child care providers are living in poverty. The prompt payment is important for they do not have thousands of dollars in savings to pay for food and housing they need for themselves and their families. Not only that, but they also have child care space and related expenses to pay.

There is also no form provided to applicants and recipients to request child care. There is an informing form, but not a child care request

form. This is not to say that DSS and the counties have not created a form for recipients to request child care. - There is - but it is not readily accessible to the people who need child care. We have been told by CalWORKs participants that this is done intentionally - by not making the form available to participants to ask for child care and other supportive services, participants cannot request child care and with these regulations, counties could only go back 30 days - thus, many poor families will get stick with owing thousands and thousands of dollars of child care to low-income providers, while DSS and counties will be laughing at these people in misery.

It is very simple. Ms. Laura Bush is on welfare and working. She needs child care. The county has contracted with the R&Rs to do child care. Thus, the welfare department does not pay child care. The R&R would not process Stage 1 child care unless they get a referral from the worker. Getting hold of the worker is like getting hold of the Pope, who may be more accessible that many welfare workers in California. These regulations completely ignore that problem. Maybe it is done intentionally. It may be the only way to keep the WtW sanctions going up and up. A recent survey done by DSS concluded that the biggest reason for sanctions is "lack of child care" according to California Welfare Directors Association (CWDA).

Section 11323.2(a)(3) provides that "A recipients required to inform the county welfare department of his or her need for paid child care as soon as the need arises."

And how does DSS implement this section? By informing applicants and recipients that they can get child care.

Yes, counties are instructed to accept and process child care payment requests. But the regulations fail miserably of providing a rational and user friendly process for the child care recipient to request child care.

When DSS and counties want to know what income the applicants or recipients have, they created a report form (called WR7, CA7,SAWS7 and CW7) that all recipients are required to complete each month. Why the form? So the county will get the information. Why not just let the applicant or recipient call and tell the county that they have income? Now that would save a lot of staff time and paper. Well, DSS and county staff decided that the most effective way to get income information is to have a monthly income report -- or soon a quarterly report. But when it comes to recipients getting the child benefits, DSS had decided that this is not important - to warrant a monthly supportive services request form. Support Services Request form would help people, whereas the monthly income report could take benefits away from them. Could that be the reason for having a monthly income report and no monthly supportive services request report? The recipients we talk to believe it is the only reason.

We would respectfully suggest that the SAWS 7, or CW 7, be amended to include a space for recipients to request supportive services. We would also proposed that 47-120.12 be amended to read:

47-120.2 is the approval process. The proposed regulations completely ignore the legislative mandate for "prompt payment" see W&IC §11323.3(a). There is a huge difference between "determining eligibility" and "paid". Determining eligibility means that payment can be made. Thousands of eligible persons wait for weeks and months to get a payment. Many are today unemployed because DSS and the counties did not pay, thus, they lost their child care supportive services and had to quit their job to protect their children - the option was to leave the child home alone - a felony crime in California - endangering the child. Meanwhile millions are wasted on welfare to work, or what we called "welfare to nowhere",

trying to make the participant employable, only to defeat everything because DSS is afraid to make sure counties obey the law by promulgating regulation that are clear and implement the statute. Subsection (e) of Section 11323.2 states: "The department shall develop regulations to implement this section." It does not say that the Department shall pass the "buck" to the counties by not even defining "prompt payment:"

CCWRO has recommended that DSS add subsection .24 to read:

"§47-120.24 Prompt Payment
Once eligibility is established pursuant to subsection .21, a payment shall be made available to the person eligible for such payment within three (3) working days."

This will comply with the law. Obeying the law is a good thing that should be championed by government rather than ignored as it is done here.

§ 11323.3(b) states: " An applicant for, or a recipient of, CalWORKs benefits shall be provided written notice, both at the time of application and when he or she signs an original or amended welfare-to-work plan, of the availability of paid child care as provided in Section 11323.2." This is simple English – notice is provided at (1) the time of application; and (2) when the participant sign an original amended WtW plan.

Proposed regulation 47-120.24, which implements this section, provides that the notice has to be signed by mailing it out to applicants and recipients with the SAWS 7s, mailing it out with welfare checks, and when the client contacts the CWD for any reason. THIS IS ILLEGAL. Only Informing Notices provided notice is provided at (1) the time of application; and (2) when the participant sign an original amended WtW plan meet the statutory definition. It appears that this regulation is adding to the statute in DIRECT CONFLICT with the statute. This is not good. DSS should implement the law and let lawmakers make the law. DSS regulations writers are not lawmakers.

We encourage advocate to submit testimony. This can be done via e-mail. **Go to** www.dss.cahnet.gov/ord.

## County Victim of the Week

**• Ms. Jasmine Johnson of Los Angeles County,** one of the leaders of unlawfully sanctioning welfare to work participants, got Ms. Johnson in their "evil trap". Ms. Johnson was pregnant. Her pregnancy was complicated and she was disabled. Even through she should have been exempt from the WtW program, she was summoned to Orientation. She called and told the county that she was pregnant, but they still sanctioned her - it's what LA County does.

**• Ms. N. Mc. has been thoroughly terrorized by Los Angeles County.** First her benefits were stopped for not having an address. She is homeless and does not have an address. She filed for a fair hearing. Ms. Duran from LA DPSS hearing office called her and told her not to show up for the hearing. Well, that turned out to be a LIE. On 7/8/03 she received a letter from DSS dismissing her case because she abandoned her hearing. She was also told by Arroya Sanchez of DPSS that if she is homeless, her children will be taken away by CPS. The District Director confirmed that kids are taken away by CPS for being homeless.

## Statistic of the Week

As we said above, the CWDA Child Care Committee June 4, 2003 minutes state that the

"State took a survey and **biggest reason for sanctions is lack of access to child care**".

Off course, lack of child care is good cause, thus, it is unlawful to sanction a person for lack of child care.

**"42-750 SUPPORTIVE SERVICES**
.1 Supportive Services
.11 Necessary supportive services shall be available to every participant in order to participate in the program activity to which he or she is assigned or to accept or retain employment. If necessary supportive services are not available, the individual shall have good cause for not participating under Section 42-713.21."

"42-713.2 Conditions that may be considered good cause for not participating in welfare-to-work activities include, but are not limited to, any of the following:

.21 Lack of necessary supportive services."


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**Programs Covered: CalWORKs, Welfare to Work (WtW), Food Stamps, Media Cal, General Assistance & Refugee/Immigrant Eligibility**


But who cares about the law. Counties have uncontrollable need to sanction, it is an addiction, even when they know that what they are doing is illegal.

**In June of 2002, 31.5%** of the unduplicated participants were sanctioned in California. The sanctioned rate for **June of 2003 was 40%**. **This is a 8.5% significant increase in sanctions**, and as DSS survey has concluded, the "biggest reason for sanctions is lack of access to child care", a reason why sanctions should not be imposed.

## Transportation Unlawfully Denied

Counties continue to unlawfully deny transportation. In June of 2003, there were 19,162 two-parent families who were working in unsubsidized employment, 1,388 were self employed, 3,695 were in job search, 3,390 were in vocational training, 2,661 were in adult education, 683 persons in community service, 1,008 in other services and 1,528 people in self-initiated activities.

This all adds up to **33,515** persons participating in a welfare to work activity.

Excluding the working persons, there are **14,353** who are not in unsubsidized employment.

Only 13,296 participants received transportation during June of 2003. There is something real sick about this fact. Something smells like an intentional deprivation of money from the working poor of California by the California county welfare departments. This is a HIGH CRIME, to steal money from the WORKING POOR getting CalWORKS.