

CCWRO Weekly New Welfare News

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State Form CW-61 Unlawfully Used By Counties

State form CW-61 can be found at <http://www.dss.cah-wnet.gov/cdssweb/entres/forms/English/CW61.PDF>. This is a state form that CalWORKs applicants or recipients can use to prove they are disabled for eligibility and Welfare-to-Work (WtW) purposes.

Section 1 of the form requires the applicant or recipient to sign a release of information exposing all medical conditions to county welfare department personnel which is contrary to state law. Applicants and recipients are not given a choice. They are required to sign Section 1 of this form.

Often, we have been told, that county personnel who receive a CW-61 from an applicant or recipient will call the doctor and question the diagnosis. Sometimes CalWORKs families are dropped by their doctor as a patient because the doctor was harassed by the county welfare department WtW worker or the Special Investigative Unit, also known as the welfare fraud unit.

The second part of the form is the part that the doctor has to complete. Some doctors will only complete forms for a fee. As a result, some applicants or recipients are forced to pay \$25 to \$75 to have the form completed.

Recently, under the public records act request, we received a written document representing the state policy from DSS which states:

"In order to qualify for a disability exemption under 42-412.44 the individual must obtain a doctors verification (in the form of a CW 61) and actively seek treatment. If both conditions are not met, the individual would not qualify for the WtW exemption."

It also states *"If the physician will not complete the form, the county may send the client to another doctor..."*

There are a number of problems with this policy statement. First, there is no 42-412.44. It is 42-712.44 and it provides as follows:

.44 Exemption Based on Disability

.441 An individual who has a disability is exempt from welfare-to-work participation when the following conditions exist:

(a) The disability is expected to last at least 30 calendar days; and

(b) The disability significantly impairs the individual's ability to be regularly employed or participate in welfare-to-work activities.

.442 To qualify for this exemption, the individual

shall do all of the following:

(a) Provide verification from a doctor as defined in Section 42-701.2(d)(2) that includes the disability, the expected duration of the disability, and the extent to which the disability impairs employment and/or participation in the welfare-to-work activities; and

(b) Actively seek appropriate medical treatment, as verified by a doctor as defined in Section 42-701.2(d)(2).

.443 The exemption may be reviewed at the time the condition is expected to end, or sooner if there is reason to believe that there has been a change in the condition.

There is no mention of a CW-61 in this regulation. Yet, DSS mandates that counties deny a disability exemption even if the doctor states the person is disabled, however, not on the State's form CW-61.

This policy is unlawful as stated above. It is unlawful to coerce or force impoverished individuals to sign releases of information against their will so that they may receive income to feed, cloth and house their children as provided in MPP 19-007.11 below.

MPP §19-007.11 Permission

"If the applicant or recipient does not wish the county to contact a private or public source in order to determine eligibility, the applicant or recipient shall have the opportunity to obtain the desired information or verification himself or herself."

This regulation is supported by **ACIN I-91-88** which can be downloaded at: <http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acin88/I-91-88.pdf> and it provides "... **Through legislative process, it has been** brought to the attention of the Department that there is a potential problem in this area. The authority on this subject is found in MPP 19-007.1 and **40-157.22**." It states that collateral contact should NOT be the first option. "An applicant or recipient must first have the option of obtaining the desired information or verification himself or herself without any requirement to use county forms or form letters. If the person does not want to obtain the information, then he or she can request assistance from the county in obtaining the information by signing the county consent form." (**MPP §40-107(a)**) "In some cases these contacts have had adverse effects on recipients, ranging from embarrassment to loss of job."

The CW-61 should inform individuals clearly about the choices available when signing the form. Moreover, applicants and recipients should be told that the CW-61 is not the only way to provide disability.