

CCWRO Welfare News

Coalition of California Welfare Rights Organizations, Inc.
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June 1, 2011
Issue # 2011-07

Thank You John Wagner



Former Department of Social Services (DSS) Director John Wagner has left DSS. John opened more doors for recipients and the legal services community than any other director. Historically, public social services recipients and their advocates have not had the same access to state officials that county welfare directors have had nor do they have a large lobbying staff in Sacramento.

John's predecessors neglected to solicit or were not willing to accept input from the advocate community. Currently, DSS meets monthly with County Welfare Directors Association (CWDA) Committees on CalWORKs, Child Care, Food Stamps, Children's Services, Legislative, Child Care, Fiscal, Self-Sufficiency, Adult Services and Information Technology. Only the CWDA Medi-Cal Committee had invited certain advocates to participate in their meetings.

Before John arrived in 2007, advocates were meeting with DSS on Welfare-to-Work issues four times a year. At one point, DSS stopped the advocates' meetings while continuing the monthly meetings with CWDA.

John Wagner agreed not only to restart the Welfare-to-Work advocates meetings but expand the advocates meetings to include IHSS and Child Welfare Services.

For years, DSS solicited input from CWDA regarding draft All County Letters (ACLs) and All County Information Notices (ACINs). In fact, DSS has a publication that showed CWDA was part of the clearance process before an ACL or and ACIN was published. At John's confirmation hearing we shared this information with him and asked why couldn't advocates also get copies of the draft ACLs and ACINs. John agreed to consider our request and soon it became DSS policy to share draft ACL/ACINs with advocates that would be shared with CWDA. It made sense to be transparent and get the advocates viewpoint.

This relationship has been beneficial to both advocates and DSS in that problematic issues have been resolved at the local level avoiding litigation and the costs associated with it.

Thank you, John.

California Fair Hearings Conducted with No Case File Contrary to State and Federal Law

Ms. Brown filed for a hearing because her CalWORKs, Medi-Cal and Food Stamp benefits stopped. In preparation of her hearing, she asked the county if she could review her case file. The county told her, "there is no case file to review because it is all in the computer." The worker informed Ms. Brown that the county would print a copy of the documents if Ms. Brown identified the documents that she wanted. Ms. Brown did not know what documents were in the case file that would aid in her case. As Ms. Brown didn't know what to request, she left.

She went to the hearing and there was no case file. The DSS Administrative Law Judge did not even ask where the case was. The sham hearing continued.

Claimants often lose the hearing even though the hearing was conducted unlawfully because case files are not available during the hearing.

The law requires that a claimant's case file be available for examination before and during an administrative hearing. The California State hearing process handles hearings for public benefits programs that are controlled by federal and state law. Often hearings are conducted on multi-program issues.

MPP § 22-051.2 states:

"22-051.2 The claimant shall have the right prior to and
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during the hearing, to examine non privileged information which the county has used in making its decision to take the action which is being appealed.”

The availability of the case file mandate applies to Medi-Cal hearings 42 CFR §431.242; Food Stamp hearings 7 CFR § 273.15(p) and hearings conducted under 45 CFR 205.10(a)(13). When counties started going “paperless” in 2006, this federal requirement has been violated in all counties of California.

Advocates have raised this issue with DSS since 2006. To date, DSS has issued numerous All County Letters and All County Information Notices (ACIN I-33-06; ACL 07-29; ACL 09-50 and ACIN I-97-10). None of these notices have required counties to adopt written policies to make case files available to welfare recipients or their representatives. Further, many counties have as the written county policy: “Case files containing non privileged information must be made available for review when requested by the applicant/recipient.” Yet, the written policy fails to set a standard for constitutes’ non privileged information.

Last year, advocates convinced DSS to get copies of county policies for access to case files. Copies of the county policy can be obtained by contacting CCWRO. The review of these policies reveal that 23 counties do not have written policies as required by MPP §11-501.3. Counties are required to develop written standards for areas of the Cal-WORKs program in which they have discretion to adopt specific standards and make the written standards available to the public for review. Some of the county policies that have been adopted are appalling, such as:

- Contra Costa County provides that clients can access their case files through the California Public Records Act.
- Orange County’s policy pertains to subpoenas, public records act requests, claims and lawsuits. It says nothing about claimants or client looking at their own case file.
- San Diego does not let claimants or client look at IEVS reports on their case. Overpayments may be based upon IEVS reports, but claimants and client are not allowed to see the foundation of the alleged overpayments.
- In San Luis Obispo, narratives are removed from case record unless the case review pertains to fair hearings.

For the past five years, Californians’ basic due process rights have been trounced upon, in that hearing decisions have been issued unlawfully, denying claims when the case file was not available for the claimant to get a fair hearing and due process of law.

In the 21st century, when millions are banking on-line, there is no reason why any DSS customer should not be able to access his or her case electronically from his or her house or at the local library. All recipients have a Personal Identification Number (PIN) to use their EBT card. This same number can be used to access their case file. There can be a disclaimer for recipients who opt to use the system in their homes or libraries rather than at the county welfare office of the danger of being hacked, but that is a choice that we all make when we bank via computer.

Legal Citations for Accessing Case Files

W&IC §11206. In case of dispute, the application and supporting documents pertaining to his case on file in the department or on file in any county office shall be open to inspection at any time during business hours by the applicant or recipient or his attorney or agent.

MEDI-CAL - 42 CFR § 431.242 Procedural rights of the applicant or recipient.

“The applicant or recipient, or his representative, must be given an opportunity to:

(a) Examine at a reasonable time before the date of the hearing and during the hearing: (1) The content of the applicant’s or recipient’s case file; and . . .”

FOOD STAMPS - 7 CFR § 273.15(p) Household rights during hearing.

“The household may not be familiar with the rules of order and it may be necessary to make particular efforts to arrive at the facts of the case in a way that makes the household feel most at ease. The household or its representative must be given adequate opportunity to:

(1) Examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing. The contents of the case file including the application form and documents of verification used by the State agency to establish the household’s ineligibility or eligibility and allotment shall be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge or the nature or status of pending criminal prosecutions, is protected from release. If requested by the household or its representative, the State agency shall provide a free copy of the portions of the case file that are relevant to the hearing. Confidential information that is protected from release and other documents or records which the household will not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing or affect the hearing official’s decision. . . .”

(2) Examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing. The contents of the case file including the application form and documents of verification used by the State agency to establish the household’s ineligibility or eligibility and allotment shall be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge or the nature or status of pending criminal prosecutions, is protected from release. If requested by the household or its representative, the State agency shall provide a free copy of the portions of the case file that are relevant to the hearing. Confidential information that is protected from release and other documents or records which the household will not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing or affect the hearing official’s decision. . . .”

AFDC/CHILD WELFARE - 45 CFR § 205.10 (a)(13) “The claimant, or his representative, shall have adequate opportunity:

(i) To examine the contents of his case file and all documents and records to be used by the agency at the hearing at a reasonable time before the date of the hearing as well as during the hearing.”