

05/04/2018

Clerk of the Superior Court
By Dollie Campos, Deputy Clerk

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

ALLISON CUFF,

Petitioner/Plaintiff,

v.

WILL LIGHTBOURNE, in his capacity as the
Director of the California Department of Social
Services, a state agency;
CALIFORNIA DEPARTMENT OF SOCIAL
SERVICES, a state agency

Respondents/Defendants.

Case No. 30-2018-00990481-CU-WM-CJC
Judge Ronald Bauer

**VERIFIED PETITION FOR WRIT OF
MANDATE (CODE CIV. PROC. §§
1085, 1094.5, AND WELF. & INST.
CODE § 10962); COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

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I. INTRODUCTION

1. The California Department of Social Services (“CDSS” or “Department”) and the County of Orange, acting on behalf of CDSS, erroneously denied Petitioner Allison Cuff’s (“Petitioner” or “Cuff”) requests that diapers and wipes be covered as an “ancillary expense” under necessary supportive services through the CalWORKS Welfare-to-Work (“WTW”) program. This denial conflicts with the statutory mandate of the WTW program that “[e]ach family has the right and responsibility to provide sufficient support and protection of its children.” Welf. & Inst. Code § 11205. Specifically, the Department’s denial of diapers and wipes as an ancillary expense violates the statute, regulations, and internal policy guidance requiring that the WTW program cover all costs necessary for WTW participants to engage in work or educational activity. *See* Welf. & Inst. Code § 11323.2(a)(3); Cal. Health and Human Services Agency, State Dept. of Social Services, MANUAL OF POLICIES AND PROCEDURESS: ELIGIBILITY AND ASSISTANCE STANDARDS § 42-750.11 (1999)(“MPP”) § 42-750.11. The Department’s decision is in error because diapers and wipes are necessary supplies, which Ms. Cuff must purchase in order to work outside the home and participate in the WTW program.

2. In order to work outside the home, Ms. Cuff must enroll her children in day care. Diapers and wipes are required costs for enrollment at a licensed childcare center in Orange County. Indeed, all licensed childcare centers in Orange County must comply with strict regulations under Title 22 of the California Code of Regulations, requiring that parents purchase and supply diapers and wipes for each child, every month, and in bulk as a condition of the child’s enrollment. 22 C.C.R. §§ 101428, 101430.

3. Ms. Cuff seeks a declaration that the monthly costs of diapers and wipes supplied to a WTW participant’s childcare provider be included as an ancillary expense under the WTW program. Further, Ms. Cuff seeks a writ of mandate commanding CDSS to comply with California law by covering the monthly costs of diapers and wipes supplied to a WTW participant’s childcare provider, and a writ of administrative mandate overturning the Department’s denial of Ms. Cuff’s requests for those payments, which was adopted on May 4, 2017.

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III. PARTIES

5. Ms. Cuff is a single mother raising three young children, two of whom are three-year-old twins and an eleven-year-old daughter. She works as an hourly clerk with the Student Equity Program at Orange Coast College and has been employed by the college under the same job title for the past four years in either a full-time or a part-time capacity. Ms. Cuff is also attending Orange Coast College, where she is obtaining her Associates Degree with the intent to transfer to a bachelor's degree program. Ms. Cuff has participated in the WTW program since 2007 in an effort to become self-sufficient and to support her family without welfare assistance. She recently graduated from the program and is no longer receiving benefits through the WTW program.

6. Respondent Will Lightbourne is the Director of CDSS (“Director” or along with CDSS, “Respondents”). He is sued in his official capacity. Respondent’s duties include the enforcement, operation, and execution of laws pertaining to the administration of the CalWORKs Program. His responsibilities also include enforcing state laws and regulations to ensure that various county welfare departments execute the regulations in a uniform and consistent manner. Welf. & Inst. Code § 10553. Review of the director’s decision shall be the exclusive remedy available to petitioner, and director shall be the sole Respondent in such proceedings. Welf. & Inst. Code § 10962.

7. Respondent CDSS (or along with Director, “Respondents”) is the state agency responsible for overseeing each counties’ administration of California’s CalWORKs WTW program, including the County of Orange, and for ensuring that each county complies with state

1 laws and regulations relating to the CalWORKs WTW program. In particular, CDSS is responsible
2 for guaranteeing the timely and accurate issuance of benefits to WTW participants. Welf. & Inst.
3 Code §§ 10600, 10603.

4 **IV. BACKGROUND OF WTW PROGRAM**

5 8. CalWORKs is a state welfare program through which California administers cash
6 grants to families with minor children who meet certain requirements, including limited income and
7 resources and deprivation of the support of one or both parents due to factors such as absence,
8 disability or unemployment. Welf. & Inst. Code § 11250 *et seq.* Funding for CalWORKs is
9 provided by the federal Temporary Aid to Needy Families (TANF) Act, which provides each state
10 with block grants to distribute to low-income families as each state sees fit. 42 U.S.C. §§ 602 *et*
11 *seq.*; *see Arenas v. San Diego County Bd. of Supervisors*, 93 Cal.App.4th 210, 213 (2001). In
12 California, counties implement the CalWORKs program at the local level. Welf. & Inst. Code §
13 10531.

14 9. The California Legislature delegated the power to promulgate regulations and
15 administer CalWORKs to the California Department of Social Services (CDSS). Welf. & Inst.
16 Code §§ 10063, 10554, 11209; *see also Fry v. Saenz*, 98 Cal.App.4th 256, 260 (2002). Pursuant to
17 this power, CDSS adopted a Manual of Policies and Procedures (MPP) to provide guidance to
18 Social Services Agencies charged with administering funding at the county level. *See* Cal. Health
19 and Human Services Agency, State Dept. of Social Services, MANUAL OF POLICIES AND
20 PROCEDURESS: ELIGIBILITY AND ASSISTANCE STANDARDS ch. 40-000 *et seq.* (1999).

21 10. Every nonexempt CalWORKs recipient must participate in WTW activities as a
22 condition of eligibility for benefits. Welf. & Inst. Code §§ 11320.3(a), 11322.8; MPP § 42-712.
23 WTW is designed to assist welfare recipients in obtaining or preparing for employment in order to
24 eventually become fully financially self-sufficient. MPP § 42-701.1.

25 **V. STATEMENT OF THE FACTS**

26 11. To achieve her goal of becoming self-sufficient through the WTW program,
27 Petitioner enrolled her twin children into a childcare center so that she could increase the number of
28 hours she worked per week. The childcare center required that Ms. Cuff provide a monthly supply

1 of diapers and wipes for her twins as part of their enrollment.

2 12. Ms. Cuff submitted a request for ancillary expense reimbursement for diapers and
3 wipes for July and August of 2016 to CDSS along with a request for advance payment for
4 September 2016, totaling \$114.45 for each month. CDSS, through its office in Orange County,
5 denied the request for each of the three months in a Notice of Action (“Notice”) dated August 16,
6 2016. The Notice stated that “[t]he cost is not necessary because the items requested are not
7 allowable ancillary items based on current CalWORKs policy and regulation.” See attached Ex. 1,
8 California Department of Social Services, Notice of Action (2016). Ms. Cuff paid for the costs of
9 the diapers and wipes from her limited financial resources so that she could continue participating
10 in the WTW program and appealed the Notice.

11 13. An administrative hearing was held before a CDSS Administrative Law Judge on
12 March 29, 2017, identified as hearing number 2016252277. At the hearing, Ms. Cuff argued that
13 diapers and wipes were a necessary cost of participating in the WTW program in that she was
14 required to put her children in daycare in order to work and that daycare required a supply of wipes
15 and diapers for enrollment. Cuff introduced as evidence declarations from Orange County childcare
16 providers stating that diapers and wipes are not included in costs of tuition.

17 14. On May 4, 2017, the judge issued his decision, which was released on May 5, 2017,
18 and upheld the County’s decision. The judge concluded that CDSS “exercised its discretion to
19 deny the claimant’s request because of the county’s lack of resources to provide any additional
20 funding for these items,” noting *sua sponte* that “there is no current state public assistance program
21 that covers the purchase of diapers and wipes.” See attached Ex. 2, California Department of Social
22 Services, Decision, page 7 (May 4, 2017) (hereinafter, the “May 4, 2017 Decision”). The decision
23 also confirmed that the County stipulated to refer Ms. Cuff’s twin children to the Children’s Home
24 Society (“CHS”) for an approved provider that supplied free diapers and wipes.

25 15. Although the County referred Ms. Cuff to CHS, CHS did not provide her with any
26 childcare providers that included free diapers and wipes or diapers and wipes as included costs
27 under its tuition. The lack of eligible childcare providers that include free diapers and wipes as part
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1 of the tuition cost was consistent with the declarations from Orange County childcare providers
2 presented by Ms. Cuff at the March 29, 2017 hearing.

3 16. On June 6, 2017, Ms. Cuff requested a rehearing within 30 days after her receipt of
4 the May 4, 2017 Decision. Despite repeated calls to CDSS confirming a rehearing date, the
5 Department failed to schedule a rehearing. On February 6, 2018, Ms. Cuff submitted an additional
6 request for the costs of diapers and wipes from October 2016 through September 2017, totaling
7 \$1,370.19. *See* attached Ex. 3, Request for Ancillary Expenses (February 6, 2018). CDSS denied
8 that request. *See* attached Ex. 4, Notice of Action (February 9, 2016).

9 17. Assembly Bill 480, without amending the ancillary expenses section of the code,
10 now requires counties to provide WTW participants thirty dollars (\$30) toward the cost diapers for
11 each child under 36 months. The bill entered into effect on April 1, 2018. We submitted a letter to
12 Will Lightbourne, the Director of DCSS, on March 22, 2018 requesting the Department clarify their
13 ancillary expense policy and revise the draft ACL to reflect that diapers are an ancillary expense
14 necessary to participate in the WTW program. *See* attached Ex. 5, Letter to Director Lightbourne
15 (March 22, 2018). We have yet to receive a response to that letter.

16 VI. APPLICABLE LAW

17 18. State law provides that “[n]ecessary supportive services shall be available for every
18 participant in order to participate in the program activity to which he or she is assigned or to accept
19 employment or the participant shall have good cause for not participating.” Welf. & Inst. Code, §§
20 11323.2(a); 11320.3(f). Supportive services offered through WTW include child care,
21 transportation costs, mental health, substance abuse, and domestic abuse services, and “ancillary
22 expenses.” Welf. & Inst. Code § 11323.2(a)(1)-(3); MMP § 42-750.1(d). “Ancillary expenses”
23 include the “cost of books, tools, clothing, specifically required for the job, fees, and *other*
24 *necessary costs.*” Welf. & Inst. Code § 11322.2(a)(3)(emphasis added). If necessary supportive
25 services are not available, the individual has good cause for not participating in WTW activities.
26 MPP § 42-750.11.

27 19. WTW participants rely on local daycare providers to participate in their program,
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1 and the daycare providers require a monthly supply of diapers and wipes from the parent or
2 guardian of an enrolled child. The supply of diapers and wipes required by a daycare provider is
3 regulated by Title 22 of the California Code of Regulations (“Title 22”). Title 22 requires that each
4 childcare center obtain a license and satisfy ongoing licensing requirements. 22 C.C.R. § 101156.
5 To maintain compliance with Title 22, daycare providers must follow diapering regulations,
6 including strict sanitation standards, diaper changing schedule standards, and a toilet training plan
7 for children. 22 C.C.R. §§ 101428, 101430, 101438.1. Centers are required to ensure that infants
8 have sufficient changes of clothing and diapers so that their clothing and diapers can be clean and
9 dry at all times. 22 C.C.R. § 101428(b).

10 20. Title 22 does not require centers to provide diapers and wipes. As such, most
11 licensed centers require parents to provide diapers and wipes as a condition of their child’s
12 attendance. See Senate Committee on Human Services May 10, 2016 hearing, CalWORKs:
13 Welfare to Work: Supportive Services, 2015 CA A.B. 492 (citing The Diaper Bank, Facts and
14 Impacts, <http://www.thediaperbank.org/facts-impacts/>). Childcare centers inform the parents of this
15 requirement during the needs and services meeting that occurs prior to the child’s first day at the
16 center. 22 C.C.R. § 101419.2.

17 21. Assembly Bill 480 went into effect on April 1, 2018. The bill amends Section
18 11323.2 of the Welfare and Institutions Code, relating to CalWORKs to include assistance of thirty
19 dollars (\$30) a month to cover the cost of diapers for each child under 36 months of age as a
20 necessary supportive service. See attached Ex. 6, Assembly Bill No. 480,

21 22. Capping of necessary ancillary services is prohibited, although it is permissible to
22 authorize staff to pay up to a certain amount in costs and then require verification of need for
23 expenditures above this amount. See All County Letter No. 04-04 (January 26, 2004);
24 MPP §§ 42-711, 42-750.

1 **VII. GENERAL ALLEGATIONS**

2 23. Petitioner is entitled to a writ of mandate under Code of Civil Procedure § 1094.5, in
3 that Petitioner has exhausted all administrative remedies.

4 24. Petitioner is entitled to a writ of mandate under Code of Civil Procedure § 1085, in
5 that Respondents have a clear, present and ministerial duty to administer the CalWORKs WTW
6 program in conformity with the requirements of state law.

7 25. Respondents at all times relevant to this action had, and continue to have, the ability
8 to administer the CalWORKs program in accordance with the requirements of state law.

9 26. Petitioner lacks a plain, speedy, or adequate remedy at law except by writ of
10 mandate.

11 27. Petitioner is entitled to declaratory relief against all Respondents under Code of
12 Civil Procedure section 1060 in that Petitioner contends that Respondents' denial of diapers and
13 wipes as an ancillary expense is violative of the Welfare & Institutions Code, lawfully enacted
14 regulations, and other provisions of state law. Respondents contend to the contrary.

15 **CAUSES OF ACTION**

16 **FIRST CAUSE OF ACTION**

17 **Writ of Mandate**

18 **(Violation of Welf. & Inst. Code §§ 11200 *et seq.***
& Lawfully Adopted Regulations, & Fam. Code §§ 3900 *et seq.*,
19 **4053, 4059 – Code Civ. Proc. § 1085)**

20 28. Petitioner realleges and incorporates by reference each and every allegation
21 contained in the above paragraphs.

22 29. Respondents' policy and practice, as reflected in Respondents' May 4, 2017
23 decision, violates California law by denying the costs of diapers and wipes supplied to WTW
24 participants' daycare provider. Respondents hold that the supply of diapers and wipes for childcare
25 is not a necessary cost under the statutory definition of supportive services. However, diapers and
26 wipes are a necessary cost of participating in the WTW program because parents like Petitioner are
27 not permitted to enroll their children in daycare unless they provide diapers and wipes on a monthly
28 basis. Therefore, Respondents' policy and practice conflicts with the CalWORKs statutory

1 mandate, purpose, and agency regulations, including the statutory definitions of supportive
2 services, necessary costs and ancillary expenses, as set forth in Welf. & Inst. Code §§ 11200 *et seq.*

3 **SECOND CAUSE OF ACTION**

4 **Administrative Mandamus**
5 **(Writ of Mandate – Code Civ. Proc. § 1094.5;**
6 **Welf. & Inst. Code § 10962)**

7 30. Petitioner realleges and incorporates by reference each and every allegation
8 contained in the above paragraphs.

9 31. Petitioner is authorized under Section 10962 of the Code of Civil Procedure to file a
10 petition with this court, under Code of Civil Procedure Section 1094.5, praying for a review of
11 Respondents' May 4, 2017 Decision denying Petitioner's request for the cost of diapers and wipes.

12 32. Respondents prejudicially abused their discretion and proceeded in a manner not
13 authorized by law in adopting the May 4, 2017 Decision.

14 33. Petitioner is beneficially interested in the outcome of the proceeding and has no
15 adequate remedy of law. She has exhausted all administrative remedies that she is required to
16 exhaust.

17 **THIRD CAUSE OF ACTION**

18 **Taxpayer Action Under Code Civ. Proc. § 526A To Prevent**
19 **Illegal Expenditure Of Funds**

20 34. Petitioner realleges and incorporates by reference each and every allegation
21 contained in the above paragraphs.

22 35. Petitioner has, within the last year, paid taxes in the County of Orange and State of
23 California. She has an interest in ensuring that taxpayer funds are not employed to operate a public
24 benefits system that violates California law.

25 36. By failing to provide a diapers and wipes as an ancillary expense, Respondents
26 misuse public funds intended to ensure compliance with State law and the State constitution.

27 37. Respondents' actions have resulted in, and unless restrained will continue to result
28 in, the illegal expenditure and waste of public funds, as well as an injury to the tax paying residents
of the state of California. An injunction against Defendants is therefore warranted.

FOURTH CAUSE OF ACTION

Declaratory Relief
(Violation of Welf. & Inst. Code §§ 11200 *et seq.*
& Lawfully Adopted Regulations, & Fam. Code §§ 3900 *et seq.*,
4053, 4059)

38. Petitioner realleges and incorporates by reference each and every allegation contained in the above paragraphs.

39. An actual controversy exists between Petitioner and Respondents as to whether denial of diapers and wipes as an ancillary expense is violative of the Welfare & Institutions Code, lawfully enacted regulations, and other provisions of state law.

40. Petitioner has no plain, speedy, and adequate remedy in the ordinary course of law.

41. Petitioner contends that as reflected in Respondents' May 4, 2017 decision, the denial of reimbursement for the cost of diapers and wipes supplied to WTW participants' daycare provider as a necessary ancillary expense violates California law. Recently enacted Assembly Bill 480 specifically identifies diaper costs as a necessary expense in order to participate in the WTW program. Further, diapers and wipes are a necessary cost of participating in the WTW program because parents like Petitioner are not permitted to enroll their children in daycare unless they provide diapers and wipes on a monthly basis.

42. Respondents hold that the supply of diapers and wipes for childcare is not a necessary cost under the statutory definition of supportive services. Therefore, Respondents' policy and practice conflicts with the CalWORKs statutory mandate, purpose, and agency regulations, including the statutory definitions of supportive services, necessary costs and ancillary expenses, as set forth in Welf. & Inst. Code §§ 11200 *et seq.*

43. Petitioner is therefore entitled to a judicial declaration of its rights and CDSS' duties under section 1060 of the Code of Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that the Court grant the following relief:

1. Declare that under California law, ancillary expenses include the necessary costs of diapers and wipes supplied to licensed daycare providers;

2. Issue a writ of mandamus under Code of Civil Procedure Section 1085 directing Respondent CDSS to:

- a. Comply with California law and, prior to April 1, 2018, include as ancillary expenses the cost for diapers and wipes when necessary to participate in WTW activities;
 - b. Comply with California law and, as of April 1, 2018, include as ancillary expenses the cost for diapers in excess of \$30 a month and the cost for wipes when necessary to participate in WIW activities;
 - c. Issue written notification to all county welfare departments informing them that the costs of diapers and wipes necessary to participate in a WTW activity are considered ancillary expenses.
3. Issue a writ of administrative mandate overturning Respondents' decision to deny Petitioner's request for the monthly supply of diapers and wipes from June 2016 through September 2017 as an ancillary expense;
 4. Grant Petitioner reasonable costs of suit;
 5. Grant reasonable attorneys' fees to Petitioner's counsel Legal Aid Society of Orange County and Western Center on Law and Poverty;
 6. Issue such other relief that the Court determines is just and proper.

Dated: _____

**LEGAL AID SOCIETY OF ORANGE
COUNTY**

By SABYL LANDRUM
Attorney for Petitioner/Plaintiff

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VERIFICATION

I, Allison Cuff, am the Petitioner in the above-entitled action. I have read the foregoing complaint and know the contents thereof. The same is true of my knowledge, except as to those matters that are therein alleged on information and belief, and as to those matters, I believe to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 3rd day of May, 2018 in Costa Mesa, California.

Allison Cuff

EXHIBIT 1

NOTICE OF ACTION

COUNTY OF ORANGE

STATE OF CALIFORNIA
HEALTH AND HUMAN SERVICES AGENCY
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

Allison Cuff
18151 Beach BLVD, APT 202
Huntington Beach, CA 92648-1306

Notice Date : 08/16/2016
Case Name : Allison Cuff
Case Number : 1B0FX39
Worker Name : H. Le
Worker Number : W5HC
Telephone : (714) 503-2389
Worker Hours : SSA, 7:00 AM - 5:00 PM
24Hour Information : (714) 541-4895
Address : 6100 Chip AVE
Cypress CA 90630-5212

Questions? Ask your Worker.

State Hearing: If you think this action is wrong, you can ask for a hearing. Your benefits may not be changed if you ask for a hearing before this action takes place. If you and the county disagree or if you have not heard back from your worker, do not wait to ask for a hearing. You must ask for the hearing before a certain number of days. See the back of this notice for more information and to find out how to ask for a hearing.

As of 08/16/2016, the County has denied your request for payment of the following items for your CalWORKs/RCA activity or to get a job:

one month supply of Diapers & Baby wipes for child care provider

Here's why:

The cost is not necessary because the items requested are not allowable ancillary items based on current Calworks policy and regulation.

You can call your Welfare to Work/Cal-Learn worker if you think this notice is wrong.

NA 823 part 2 (08/00) Denial of Request for Payment of items needed for WTW

Rules: These rules apply. You may review them at your welfare office: Calworks Implementation Guidelines: Section VII, Section XII. Welfare & Inst. Code: 11322.9, 11323.2, 11323.4

EXHIBIT

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PAGE 1 OF 1

EXHIBIT 2

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

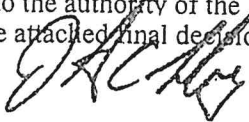
Hearing No. 2016252277

In the Matter of Claimant(s):

Allison Cuff
18151 Beach Blvd. Apt.# 202
Huntington Beach, CA 92648

DECISION

Pursuant to the authority of the Director,
I adopt the attached final decision.



Adopt Date: May 4, 2017

Jonathan Huang
Administrative Law Judge

State Hearing Record

Hearing Date:	March 29, 2017	Release Date:	May 5, 2017
Aid Pending:	Not Applicable	Issue Codes:	[106-3]
Agency:	Orange County	Agency Representative:	Debra Chavarria
Agency:		Agency Representative:	
Authorized Rep. Organization:	Legal Aid Society of Orange County	Authorized Rep.	Lily Graham
SSN:		SSN:	
AKA:		AKA:	
Case Name:	Allison Cuff	Language:	English
LA District/Case:		Companion Case:	

Appeal Rights

You may ask for a rehearing of this decision by mailing a written request to the Rehearing Unit, 744 P Street, MS 9-17-37, Sacramento, CA 95814 within 30 days after you receive this decision. This time limit may be extended up to 180 days only upon a showing of good cause. In your rehearing request, state the date you received this decision and why a rehearing should be granted. If you want to present additional evidence, describe the additional evidence and explain why it was not introduced before and how it would change the decision. You may contact Legal Services for assistance.

You may ask for judicial review of this decision by filing a petition in Superior Court under Code of Civil Procedure §1094.5 within one year after you receive this decision. You may file this petition without asking for a rehearing. No filing fees are required. You may be entitled to reasonable attorney's fees and costs if the Court renders a final decision in your favor. You may contact Legal Services for assistance.

This decision is protected by the confidentiality provisions of Welfare and Institutions Code §10850.

SUMMARY

Orange County's action denying the claimant's request for Welfare-To-Work (WTW) ancillary expense payment in the form of reimbursement of monthly expenses for diapers and wipes is sustained.

Orange County shall abide by its stipulation to assist the claimant by referring her children to a Children's Home Society (CHS) approved childcare provider that provides free diapers and wipes. [106-3]

FACTS

The county's Welfare to Work (WTW) Program is also referred to as Greater Avenue for Independence (GAIN).

The claimant is a 36-year-old female. The claimant's CalWORKs assistance unit (AU) consists of herself and her three minor children.

LG is identified as the authorized representative (AR) for the claimant.

Per county's record, the claimant receives childcare services through Children's Home Society (CHS). The claimant's WTW activity is vocational educational training and Unsubsidized Employment (UEM). It is undisputed that the claimant was participating in an approved WTW activity during the months in dispute.

On August 9, 2016, the claimant submitted a request for reimbursement of monthly expenses for baby wipes and diapers for her two children.

By a Notice of Action (NOA) issued on August 16, 2016, the county denied the claimant's request of reimbursement for baby wipes and diapers.

On September 7, 2016, the claimant filed a hearing request disputing the county's denial of her request of reimbursement for diapers and wipes.

The records indicate that this hearing was previously postponed on September 27, 2016, and November 28, 2016.

The state hearing was held on March 29, 2017, in the county of Orange. The claimant, the AR, an attorney from the AR's office, the county representative, and two county program managers (TP and DO) attended the hearing in person.

The county representative contended that the county correctly denied the claimant's request for reimbursement because it was determined that purchase of diapers and wipes is not an ancillary expense based on the county's written policy, as this expense is not needed for the claimant to participate in her WTW activity. To support her testimony, the county representative submitted a copy of the county's Ancillary Supportive Services, No. 315¹, which was revised on

¹ The written policies and procedures provide that ancillary payment does not cover the cost of purchasing personal computers, internet services, school tuition and registration, college application fees, court fees, court-ordered class fee, impound fees, car repairs, car maintenance, firearms, and ammunition. Items covered include books, campus based study time, clothing, health fee, low cost supplies, tools and equipment.

June 30, 2014. The written policies and procedures provide that ancillary services are available for "advance payments; cost of books, tools, fees, clothing; and other necessary costs specifically required for a job or approved WTW activities. Ancillary requests will be evaluated and reimbursed if no other source of funding for reimbursement is available from another source."

The county representative submitted a copy of the WTW Educational Ancillary Request, which includes a copy of the receipt from a Costco store, for two boxes of diapers and a box baby wipes, totaling \$114.45. Also submitted into evidence by the county is a copy of Child Care Certificates, which verified that from August 20, 2016, through October 13, 2016, the claimant's two children were enrolled in a pre-school approved by CHS; and a copy of List of Items to Bring for Infant/Toddler Center from the pre-school, which instructs the parents to supply diapers and unscented wipes on a monthly basis.

TP confirmed that she has read and reviewed the county's written policies and procedures regarding ancillary payments. TP argued that the county is not required to provide ancillary payment for diapers or wipes because only ancillary expenses that are necessary for the claimant's participation in the WTW activities can be approved.

TP and DO conceded that the county's determination of this matter is discretionary, as the policies and procedures do not prohibit the county from providing ancillary payments for diapers and wipes. DO explained that however, due to the lack of funding and budget, the county is unable to approve the claimant's request.

Stipulation

The county representative agreed that in the event that the county's action denying the claimant's request of reimbursement for diapers and wipes is sustained, by stipulation the county would assist the claimant by referring her children to a CHS approved childcare provider that provides free diapers and wipes.

The AR agreed to the term of the stipulation.

Authorized Representative's Arguments

The AR contended that the county incorrectly denied the claimant's request for necessary supportive services under the WTW program, for the following reasons:

- Diapers and baby wipes are necessary expenses for the claimant in to participate in the WTW activities; and
- The county did not issue an adequate notice with respect to its denial of the claimant's request of reimbursement for diapers and wipes.

To support her arguments, the AR submitted a copy of her brief; childcare contract from the provider of the claimant's children; ancillary expense request for diapers and wipes; a copy of the August 16, 2016 NOA; a copy of declarations of the claimant and childcare providers; a copy of the county's written policies and procedures numbers 272, 302, and 325; a copy of All County Letter (ACL) No. 04-04; and a copy of All County Information Notice (ACIN) No. I-02-14.

a. Necessary Expenses

The AR referred to Welfare and Institutions Code Section 11323 and state regulations, which provide that ancillary expenses "shall include the cost of books, tools, clothing specifically required for the job, fees, and other necessary costs."

The AR pointed out "the purpose of CalWORKs is to enable each family to obtain and retain employment and leave welfare," and that "the intent of the Welfare to Work program is to provide employment... to virtually all adult recipients." Additionally, Welfare and Institutions Code Section 11207 requires the county to "grant aid... in such a manner as to achieve the greatest possible reduction of dependency and to promote the rehabilitation of recipients."

The AR indicated that furthermore, except for tuition, state regulations do not exclude any other category of expenses. The AR cited the Manual of Policies and Procedures (MPP); and contended that the regulatory standard for approval of ancillary expenses should be based on necessity. As such, the AR argued that the county's interpretation of its written policies and procedures does not conform to the statutes and regulations because it is the intent of the law to include all necessary work-related expenses as ancillary benefits.

Per the AR, the claimant was required to supply diapers and wipes to the childcare provider as a condition of her children's attendance at the childcare center. The AR explained that childcare providers are required by Title 22 of the California Code of Regulations to comply with strict standards designed to ensure that a child has sufficient changes of clothing and diapers; and as the law does not mandate childcare centers to provide diapers and wipes, the claimant is burdened with the responsibility of purchasing diapers and wipes. In her SOP, the AR stated that "[t]his cost is in addition to the basic cost of enrolment[sic] entails a significant entry barrier for mothers seeking to begin their education or enter the workforce."

The AR indicated that diapers and wipes are no different from the items that have been routinely approved as ancillary expenses; for example, items such as pens, text books, and uniforms are subject to approval because an individual would not be able to participate in education or employment without these items. The AR argued that for the same reason, the county must approve the claimant's request of reimbursement for diapers and wipes, which is necessary for childcare, so that she may continue to participate in her WTW activities.

Finally, the AR contended that the state has a duty and responsibility to ensure that people like the claimant are allowed to continue their participation in the WTW program without being forced to care for their children at home. The AR indicated that the burden of paying for diapers and wipes prevents the claimant from participating in the WTW program and gaining knowledge or tools necessary for her to support her family. And the lack of access to the WTW program increases the claimant's reliance on welfare, which perpetuates poverty.

b. Adequacy of the Notice

The AR contended that the county's action denying the claimant's request of reimbursement for diapers and wipes violated the claimant's constitutional right to due process because the county did not provide the claimant with a timely and adequate notice.

The AR stated that the August 16, 2016 notice failed to advise the claimant the reason(s) supporting the denial of her request because the notice did not cite any policy or regulations with respect to the county's action.

The AR requested to keep the record open so that further communications may be made with the county. However, the claimant withdrew this request at the hearing.

Claimant's Testimony

The claimant stated that she has been in compliance with all assigned WTW activities, and that her participation hours have far exceeded the minimum requirement. The claimant indicated that she would like to continue to participate in the WTW program. The claimant stated that however, she would suffer hardship if she was required to pay for diapers and wipes on her own.

The claimant confirmed that her AU receives \$284.00 in monthly CalWORKs benefits.

LAW

All the regulations cited below are from the Manual of Policies and Procedures (MPP), unless otherwise noted.

For purposes of this decision, W&IC is the abbreviation for the Welfare & Institutions Code.

A state hearing shall be available to a claimant who is dissatisfied with a county action and requests a state hearing. (§22-003.1)

The California Work Opportunity and Responsibility to Kids Act is contained in Chapter 2, Part 3, Division 9 of the W&IC (commencing with §11200 and ending with §11526) and may be cited as the CalWORKs program. (W&IC §11200)

Goldberg v. Kelly (397 U.S. 254 (1970)) held that principles of due process including notice and right to hearing are applicable to federally funded welfare benefits.

Adequate Notice

A county action is one which requires adequate notice, as well as any other county action or inaction relating to the claimant's application for or receipt of aid. (§22-001(c)(5))

The county is required to provide adequate notice when aid is granted, increased, denied, decreased, not changed following a recipient mid-quarter report, cancelled or discontinued. Adequate notice must also be provided when the county demands repayment of an overpayment. Adequate notice is defined as written notice informing the claimant of the action that the county intends to take, the reasons for the intended action, the specific regulations supporting such action, an explanation of the claimant's right to request a state hearing, and if appropriate, the circumstances under which aid will be continued if a hearing is requested. When appropriate, the notice shall also inform the claimant regarding what information or action, if any, is needed to reestablish eligibility or determine a correct amount of aid. In CalWORKs (formerly AFDC), the notice shall state that if the county action is upheld, aid pending must be repaid. In all cases, the notice is to be prepared on a standard form approved by the California Department of Social Services. The notice shall be prepared in clear, nontechnical language and if a claimant submits a request for a state hearing on the back of the notice, a duplicate copy shall be provided to the claimant on request. (§§22-071.1 and 22-001(a))

Notices should be complete if they are to be adequate. The notice itself must state all of the required information. The verbal explanation is not a substitute for adequate written notice. (All County Information Notice (ACIN) I-151-82, November 23, 1982)

If adequate notice was required but not provided, or if the notice is not adequate and/or language-compliant, any hearing request (including an otherwise untimely hearing request) shall be deemed a timely hearing request. (§22-009.1 revised effective January 24, 2007)

Welfare to Work Program

"WtW Grant program" means the Welfare-to-Work (WtW) Grant program described in 42 United States Code (USC) §603(a)(5), which authorizes the U.S. Dept. Of Labor to provide WTW grants to states and local communities. (§42-701.2(w)(1), eff. August 1, 2002)

As of January 1, 1998, state law provides that any statutory reference to the Greater Avenues for Independence (GAIN) program shall mean the welfare-to-work activities under the CalWORKs program. (W&IC §11320)

Every individual receiving aid is required to participate in welfare-to-work activities as a condition of eligibility, unless exempt from participation. (W&IC §11320.3(a); §42-712.1)

Supportive services which are necessary for participation in the assigned program activity, or in order to accept employment, must be available to every participant, including those in SIPs. When necessary services are not provided, the individual will have established good cause for nonparticipation, under §42-713.21.

Supportive services must include childcare, transportation costs, ancillary expenses, and personal counseling. Payments for all such services, except for childcare, shall be advanced to the participant whenever necessary, and when desired by the participant. Requiring CalWORKs participants to use their income, income disregard or cash assistance payment to pay for supportive services violates state statutes and regulations. (W&IC §§11323.2, 11325.23(d), and 11323.4(a); §42-750.1, effective July 1, 1998; All County Letter (ACL) No. 00-54, August 11, 2000)

Necessary supportive services shall be available to every participant in order to participate in the welfare-to-work 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 in welfare-to-work activity. Supportive services shall include ancillary expenses required for the job. Payments for all such services, except for childcare, shall be advanced to the participant whenever necessary, and when desired by the participant. Requiring CalWORKs participants to use their income, income disregard or cash assistance payment to pay for supportive services violates state statutes and regulations. (W&IC §§11323.2, 11325.23, subd. (d) & 11323.4(a); §42-750.1)

Ancillary expenses shall include the cost of books, tools, clothing specifically required for the job, fees and other necessary costs. (Welfare & Institutions Code, §11323.2(a)(3).) Tuition and school fees in the nature of tuition are not ancillary expenses and the county need not pay such costs when a person or entity, other than the county or county authorized entity, contracts for the training. This prohibition against paying tuition only applies to SIPs. If a county includes and educational activity in the clients plan, and the client is not a SIP, the county must pay for tuition for the client. (§42-750.113)

Necessary supportive services cannot be denied or reduced based on the participant's receipt of financial aid unless the participant voluntarily chooses to use the financial aid to cover costs otherwise covered by CalWORKs supportive services.

A county is responsible to pay for reasonable accommodations that are not otherwise provided by other sources if the items are necessary for the individual to participate on an equal basis with non-disabled participants in the approved WTW activity.

(ACL 04-04, January 26, 2004)

Counties have the authority and responsibility to adopt written policies and procedures in certain areas of the CalWORKs program. This authority and responsibility includes adopting specific standards which affect a recipient's welfare-to-work activities, including supportive services, and determining when ancillary expense is necessary for the individual to participate in WTW activities. (ACL 00-08, January 3, 2000, citing §42-750.113; ACL 98-58, July 31, 1998)

Where statutes or CDSS regulations authorize counties to adopt specific standards which affect a recipient's welfare-to-work activities, including supportive services, such standards shall be in writing and shall be made available to the public upon request. (§11-501.3)

In exercising its discretion to grant or deny welfare-to-work related supportive services, the county must examine the relevant data and articulate a satisfactory explanation for its action, including a rational connection between the facts found and the choice made. In reviewing the county's discretionary decision, the ALJ must not substitute his or her judgment for that of the county. The ALJ should uphold the county's decision if it is based on a consideration of relevant factors and there has been no clear error of judgment by the county. (See *Motor Vehicle Mfrs. Ass'n v. State Farm Mutual*. (1983) 463 U.S. 29, 43; see also Asimow, Michael, 42 UCLA Law Review 1157, 1228, 1229, June 1995)

Orange County's written Welfare-To-Work policy regarding WTW Supportive Services-Ancillary Expenses states:

Policy

Participants shall be informed about the various ancillary services available, including:

- Availability of advance payments;
- An explanation that these services include the cost of books, tools, fees, clothing, and
- Other necessary costs specifically required for a job or approved WTW activities.

Ancillary requests will be evaluated and reimbursed if no other source of funding for reimbursement is available from another source.

Authorizing Amounts for Payments

At county option, all ancillary requests are subject to a review process. This would include ancillary requests for tools, equipment, job certification testing fees and accommodations for persons with disabilities, etc.

Ancillary Items Not Covered

Ancillary does not cover the cost of purchasing personal computers (including upgrades to computer hardware and computer software packages), Internet services, school tuition and registration, college application fees, court fees, court-ordered class fee, impound fees, car repairs, car maintenance, firearms, and ammunition.

Stipulation

The county representative shall have authority at the state hearing to make binding agreements and stipulations on behalf of the County Welfare Department. (§22-073.37)

CONCLUSION

Denial of the Request for Reimbursement

State regulations provide that the county has the authority to establish procedures to review requests for ancillary payments, provided that the county develops and adopts written policies and procedures that determine when ancillary expense is necessary for an individual to participate in WTW activities. Under *Motor Vehicle Mfrs. Ass'n v. State Farm Mutual*, in exercising its discretion to grant or deny welfare-to-work related ancillary expenses, the county must examine the relevant data and articulate a satisfactory explanation for its action, including a rational connection between the facts found and the decision made.

During the hearing, a copy of Orange County's Ancillary Supportive Services No. 315 was submitted into evidence. Although the county's written policies and procedures do not indicate whether diapers or wipes are ancillary expenses subject to reimbursement, the county's program manager explained that the county denied the claimant's request because diapers and wipes are not necessary for the claimant to participate in her WTW activities. The county's program manager also indicated that the county exercised its discretion to deny the claimant's request because of the county's lack of resources to provide any additional funding for these items. In addition to the county's evidence, this administrative law judge notes that there is no current state public assistance program that covers the purchase of diapers and wipes.

Pursuant to case law, "the ALJ must not substitute his or her judgment for that of the county." And that "[t]he ALJ should uphold the county's decision if it is based on a consideration of relevant factors and there has been no a clear error of judgment by the county." As the county has provided a satisfactory explanation for its action and there is no showing that there was a clear error of judgment by the county, this administrative law judge must not disturb the validity of the county's determination notwithstanding the compelling arguments presented by the AR. For this reason, it is determined that the county's action denying the claimant's request of reimbursement of monthly expenses for diapers and wipes must be sustained.

Adequacy of Notice

The general principles of due process provide that an individual, whose government benefits are affected, be afforded a hearing. The individual must be provided with timely and adequate notice detailing the reasons for the action, and an effective opportunity to defend by confronting adverse witnesses and by presenting his own arguments and evidence orally before the decision maker.

If a notice is inadequate or not language compliant, the remedy is not to overturn the action related to that notice; rather, the regulations provide that the case shall be postponed if the claimant requests a postponement.

This administrative law judge has reviewed the notice of action at issue and has determined that the notice of action is adequate. The notice was mailed to the claimant's address of record; provides the corresponding statutes regarding supportive services and ancillary expenses; and notifies the claimant of her right to request a state hearing within 90 days.

Even if this notice were inadequate, there was no evidence that the claimant's due process rights were violated. Here, the claimant timely filed a request for a state hearing disputing the county's action, and the county provided the claimant with a SOP detailing the denial along with the corresponding regulations. The records indicate that this hearing was previously postponed on September 27, 2016, and November 28, 2016. The AR did not request postponement of this state hearing. Additionally, this administrative law judge provided the AR an option to keep the record open; however, the claimant withdrew this request at the hearing.

The purpose of the county issuing timely and adequate notice detailing the reasons for its action(s) is to ensure that the claimant makes an informed decision to file a timely hearing request in order to challenge the county's action(s). In this case, there is no dispute with respect to postponement or the timeliness of the claimant's September 7, 2016 hearing request, as it was filed within 90 days of the August 16, 2016 notice. Therefore, it is determined that the claimant was not denied any due process right, as she had an opportunity to be heard by submitting documentary and testimonial evidence challenging the county's denial of the claimant's request of reimbursement for diapers and wipes.

Stipulation

The county representative has the authority to make binding stipulations on behalf of the county at the hearing. During the hearing, the county representative stipulated that the county would assist the claimant by referring her children to a CHS approved childcare provider that provides free diapers and wipes.

The AR accepted the county representative's stipulation. Therefore, the county shall abide by its stipulation.

ORDER

The claimant is granted in part and denied in part.

Orange County shall assist the claimant by referring her children to a CHS approved childcare provider that provides free diapers and wipes.

In all other respects, the claim is denied.

EXHIBIT 3



FAX TRANSMITTAL

TO: Veronique Tran #W444 **FAX #** 714-503-2241
Social Services Agency/MAXIMUS

FROM: Vickie Hay, CalWORKs Coordinator **FAX #** 714-432-5824
Student Success & Support Services

RE: Allison Cuff **DATE:** 2/6/2018

Case # 1B0FX39

Please find enclosed:

FAXED
2/6/18 JC 4:10p

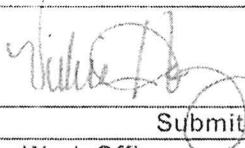
- ☐ #41-05 – Education/Training Referral
- ☐ WTW8
- ☐ Authorized Representative – DPA 19 (4/07)
- ☐ Program Audit (Student Education Plan)
- ☐ Certificate Program Description
- ☐ Winter Intersession 2018 Class Schedule _____
- ☐ Spring 2018 Class Schedule _____
- ☐ Summer 2018 Class Schedule _____
- ☐ Fall Semester 2018 Class Schedule _____
- ☐ Final Grade Report _____
- ☐ #41-06 – Month(s) _____
- ☐ Workstudy/Internship Agreement _____
- ☐ Employer/Internship Verification
- ☒ Request for Referral to Ancillary – Total \$ 1,370.19
- ☐ Receipts/Textbook List/Other Verifications
- ☐ Other _____

Thank you!

(6, including coversheet)



COUNTY OF ORANGE
WELFARE-TO-WORK EDUCATIONAL ANCILLARY REQUEST

Provider Name: ORANGE COAST COLLEGE	Name of Participant: ALLISON CUFF
Contact Person: VICKIE HAY CALWORKS COORDINATOR	CalWIN Case #: 1B0FX39
Signature: 	Date: 10/1/2016
Submit in person, by Mail or Fax to the Welfare-To-Work Case Manager	
Welfare-To-Work Office: 6100 Chip Ave., Cypress, CA 90630	Case Manager: VERONIQUE TRAN
	Caseload #: W4AH
	Fax #: 714-503-2241
RELEASE OF INFORMATION AUTHORIZATION or CHECK ONE: <input checked="" type="checkbox"/> 41-05 on file <input checked="" type="checkbox"/> DPA 19 on file I authorize the above Provider and the County of Orange Social Services Agency to exchange information about my Welfare-To-Work Participation records for Administrative Purposes.	
_____ Participant Signature	
_____ Date	
Welfare-To-Work Activity: Vocational Training Non-Core (VTR)	<input type="checkbox"/> Advance Payment <input checked="" type="checkbox"/> Reimbursement

For County Use Only			
Approve ancillary request in full: <input type="checkbox"/> Yes <input type="checkbox"/> No		Supervisor/Program Approval: <input type="checkbox"/> Yes <input type="checkbox"/> No	
If No, explain below what item(s) not covered and reason: 			
Worker Name:		Worker #:	
Date Approved:		Amount Paid:	Date Issued:
NOA Sent: <input type="checkbox"/> Yes <input type="checkbox"/> No	Date NOA Sent:	Document(s) Sent to OnBase: <input type="checkbox"/> Yes <input type="checkbox"/> No	

School Term/Semester: Fall		Year: 2016		
Mandatory Fees			Amount	
Total Mandatory Fees			\$0.00	
Itemized Books/Materials for Classes/Courses or <input checked="" type="checkbox"/> Required Book List and/or Supply List Attached				
CRN/Class #	Course Name	Books/Materials	Tax Included	Amount
	Oct. 2016 - Sept. 2017	HUGGIES DIAPERS SIZE 5	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$515.88
	Oct. 2016 - Sept. 2017	HUGGIES DIAPERS SIZE 6	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$515.88
	Oct. 2016 - Sept. 2017	KIRKLAND WIPES	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	\$239.88
			<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	
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			<input type="checkbox"/> Yes <input type="checkbox"/> No	
Subtotal of Tax Included Items				\$0.00
Total of Taxable Items				\$1,271.64
Tax			7.75%	\$98.55
Subtotal of Taxable Items				\$1,370.19
Shipping (if applicable)				
TOTAL ANCILLARY REQUEST				\$1,370.19

THIS REQUEST IS FOR THE EXPENSE OF MY TWIN'S DIAPER AND WIPE SUPPLIES REQUIRED BY THEIR DAYCARE PROVIDER FROM 10/01/2016 THROUGH 09/01/2017. ATTACHED 3 PAGES ARE ESTIMATED COSTS OF DIAPERS AND WIPES

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Allison Cuff

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m		Shipping	Price	Quantity	Total	Feedback
	Kirkland Signature Baby Wipes 900-count Item # 394485	<input checked="" type="radio"/> Standard Ground <input type="radio"/> Express 1 to 2 Business Days Delivery Details	\$19.99 Free Shipping	<input type="text" value="5"/> Remove	\$99.95	
Add to List						
	Huggies Little Movers Plus Diapers Size 5, 150-count Item # 955510	<input checked="" type="radio"/> Standard Ground <input type="radio"/> Express 1 to 2 Business Days Delivery Details	\$42.99 Free Shipping	<input type="text" value="12"/> Remove	\$515.88	
Add to List						
	Huggies Little Movers Plus Diapers Size 6, 120-count Item # 955521	<input checked="" type="radio"/> Standard Ground <input type="radio"/> Express 1 to 2 Business Days Delivery Details	\$42.99 Free Shipping	<input type="text" value="12"/> Remove	\$515.88	
Add to List						



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Kirkland Signature Baby Wipes 900-count
Item # 394485
\$19.99
Free Shipping

Feedback

- ☒ Standard Ground
- ☐ Express 1 to 2 Business Days

[Delivery Details](#)

Quantity	Total
5	\$99.95
Add to List	Remove

Subtotal (5 Items)
\$99.95

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Estimated Order Total

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Warehouses
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Allison Cuff



Kirkland Signature Baby Wipes 900-count

Item # 394485

\$19.99

Free Shipping

Feedback

☒ Standard Ground☐ Express 1 to 2 Business Days[Delivery Details](#)

Quantity

Total

\$39.98

[Add to List](#)[Remove](#)

Subtotal (2 Items)

\$39.98

[Calculate Shipping](#)

Estimated Order Total

EXHIBIT 4

NOTICE OF ACTION

COUNTY OF ORANGE

STATE OF CALIFORNIA
HEALTH AND HUMAN SERVICES AGENCY
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

Notice Date : 02/09/2018
Case Name : Allison Cuff
Case Number : 1B0FX39
Worker Name : V. Ngo
Worker Number : W2B1
Telephone : (714) 503-2518
Worker Hours : SSA, 7:00 AM - 5:00 PM
24Hour Information : (714) 541-4895
Address : 6100 Chip AVE
Cypress CA 90630-5212

Allison Cuff
18151 Beach BLVD, APT 202
Huntington Beach, CA 92648-1306

Questions? Ask your Worker.

State Hearing: If you think this action is wrong, you can ask for a hearing. Your benefits may not be changed if you ask for a hearing before this action takes place. If you and the county disagree or if you have not heard back from your worker, do not wait to ask for a hearing. You must ask for the hearing before a certain number of days. See the back of this notice for more information and to find out how to ask for a hearing.

As of 02/09/2018, the County has denied your request for payment of the following items for your CalWORKs activity or to get a job:

Ancillary request for: Huggies Diapers size 5 \$515.88, Huggies Diapers size 6 \$515.88, Kirkland wipes \$239.88. Total Expense \$1271.64 plus tax \$98.55 = \$1370.19

Here's why:

You do not need these items for your CalWORKs activity or to get a job because the cost is not necessary to participate in your WTW activity and/or retain employment.

You can call your Welfare to Work/Cal-Learn worker if you think this notice is wrong.

NA 823 part 2 (08/00) Denial of Request for Payment of items needed for WTW

Rules: These rules apply. You may review them at your welfare office: Calworks Implementation Guidelines: Section VII, Section XII, Welfare & Inst. Code: 11322.9, 11323.2, 11323.4

EXHIBIT 5



Los Angeles (Headquarters)
3701 Wilshire Blvd., Suite 208
Los Angeles, CA 90010
T. 213.487.7211
F. 213.487.0242

Sacramento
1107 9th Street, Suite 700
Sacramento, CA 95814
T. 916.442.0753
F. 916.442.7966

March 22, 2018

*VIA Email - Will.Lightbourne@dss.ca.gov
and Facsimile - 916-651-6569*

Will Lightbourne, Director
California Department of Social Services
744 P Street
Sacramento, CA 95814-6413

RE: Demand Regarding The ACL Implementing Diaper Bill ACL (AB 480)

Dear Director Lightbourne:

We represent Allison Cuff, who, similar to other low-income CalWORKs recipients, is required to provide diapers and wipes to child care providers in order to retain child care and participate in welfare-to-work (WTW) activities. We understand that CDSS is issuing an All County Letter (ACL) to counties in order to implement Assembly Bill 480, which requires counties to provide \$30 for the costs of diapers for each WTW participant with a child under 36 months of age. We demand that CDSS clarify and revise the draft ACL and regulations to notify counties that they must cover the costs of diapers and wipes that exceed \$30 per child when the costs qualify as an "ancillary expense" through the CalWORKS Welfare-to-Work ("WTW") program.

As you know, "[n]ecessary supportive services shall be available for every participant in order to participate in the program activity to which he or she is assigned or to accept employment or the participant shall have good cause for not participating." Welf. & Inst. Code, §§ 11323.2(a); 11320.3(f). Supportive services offered through WTW include child care, transportation costs, mental health, substance abuse, and domestic abuse services, and the actual costs of "ancillary expenses." Welf. & Inst. Code § 11323.2(a)(1)-(3); MMP § 42-750.1(d). "Ancillary expenses" include the "cost of books, tools, clothing, specifically required for the job, fees, and other necessary costs." Welf. & Inst. Code § 11322.2(a)(3)(emphasis added).

To maintain compliance with Title 22, daycare providers must follow diapering regulations, including strict sanitation standards, diaper changing schedule standards, and a toilet training plan for children. 22 C.C.R. §§ 101428, 101430, 101438.1. Centers are required to ensure that infants have sufficient changes of clothing and diapers so that their

Will Lightbourne, Director
California Department of Social Services
March 22, 2018
Page 2

clothing and diapers can be clean and dry at all times. 22 C.C.R. § 101428(b). Title 22 does not require centers to provide diapers and wipes. As such, most licensed centers require parents to provide diapers and wipes as a condition of their child's attendance. In order to participate in WTW activities, parents like Ms. Cuff, must provide diapers and wipes to retain child care that is required for WTW participants with young children. AB 480 did not change this requirement.

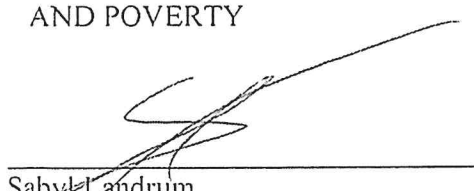
Prior to the effective date of AB 480, WTW participants were entitled to obtain or recover the actual costs of diapers and wipes as ancillary expenses that were necessary to participate in the WTW program or to accept employment. AB 480 did not amend the ancillary expenses section of the code, and, therefore, did not limit or change the entitlement to diapers and wipes as an ancillary expense.

We demand that CDSS respond no later than 5:00 p.m. on April 20, 2018 indicating the steps that it will take to clarify the policy and to revise the draft ACL. Should CDSS not respond, we may take action to enforce our client's legal rights.

Very truly yours,



Antionette Dozier
Senior Attorney
WESTERN CENTER ON LAW
AND POVERTY



Sabyll Landrum
Staff Attorney
LEGAL AID SOCIETY OF ORANGE COUNTY
AND COMMUNITY LEGAL SERVICES IN
SOUTHEAST LOS ANGELES COUNTY

EXHIBIT 6

Assembly Bill No. 480

CHAPTER 690

An act to amend Section 11323.2 of the Welfare and Institutions Code, relating to CalWORKs.

[Approved by Governor October 12, 2017. Filed with
Secretary of State October 12, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 480, Gonzalez Fletcher. CalWORKs: welfare-to-work: necessary supportive services.

Existing law provides for the California Work Opportunity and Responsibility to Kids (CalWORKs) program, under which each county provides cash assistance and other benefits to qualified low-income families and individuals. Existing law generally requires a recipient of CalWORKs benefits to participate in welfare-to-work activities as a condition of eligibility for aid. Existing law requires that necessary supportive services be available to participants in welfare-to-work activities, including child care, personal counseling, transportation costs, and ancillary expenses.

This bill would, on and after April 1, 2018, require the above-described supportive services to additionally include the costs of diapers. The bill would make a participant who is participating in a welfare-to-work plan eligible for \$30 per month to assist with diaper costs for each child who is under 36 months of age. The bill would require the State Department of Social Services to implement this provision through all-county letters until regulations are adopted by January 1, 2020. By increasing the duties of counties administering the CalWORKs program, this bill would impose a state-mandated local program.

Existing law continuously appropriates moneys from the General Fund to defray a portion of county costs under the CalWORKs program.

This bill would instead provide that the continuous appropriation would not be made for purposes of implementing the bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 11323.2 of the Welfare and Institutions Code, as amended by Section 71 of Chapter 15 of the Statutes of 2017, is amended to read:

11323.2. (a) Necessary supportive services shall be available to every participant in order to participate in the program activity that he or she is assigned to or to accept employment or the participant shall have good cause for not participating under subdivision (f) of Section 11320.3. As provided in the welfare-to-work plan entered into between the county and participant pursuant to this article, supportive services shall include all of the following:

(1) Child care.

(A) Paid child care shall be available to every participant with a dependent child in the assistance unit who needs paid child care if the child is 10 years of age or under, or requires child care or supervision due to a physical, mental, or developmental disability or other similar condition as verified by the county welfare department, or who is under court supervision.

(B) To the extent funds are available, paid child care shall be available to a participant with a dependent child in the assistance unit who needs paid child care if the child is 11 or 12 years of age.

(C) Necessary child care services shall be available to every former recipient for up to two years, pursuant to Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code.

(D) A child in foster care receiving benefits under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.) or a child who would become a dependent child except for the receipt of federal Supplemental Security Income benefits pursuant to Title XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.) shall be deemed to be a dependent child for the purposes of this paragraph.

(E) The provision of care and payment rates under this paragraph shall be governed by Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code. Parent fees shall be governed by Sections 8263 and 8273.1 of the Education Code.

(2) Diaper costs.

(A) On and after April 1, 2018, a participant who is participating in a welfare-to-work plan shall be eligible for thirty dollars (\$30) per month to assist with diaper costs for each child who is under 36 months of age.

(B) The department shall adopt regulations by January 1, 2020, to implement this paragraph. Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department shall implement this paragraph through all-county letters until regulations are adopted.

(3) Transportation costs, which shall be governed by regional market rates as determined in accordance with regulations established by the department.

(4) Ancillary expenses, which shall include the cost of books, tools, clothing specifically required for the job, fees, and other necessary costs.

(5) Personal counseling. A participant who has personal or family problems that would affect the outcome of the welfare-to-work plan entered into pursuant to this article shall, to the extent available, receive necessary counseling or therapy to help him or her and his or her family adjust to his or her job or training assignment.

(b) If provided in a county plan, the county may continue to provide case management and supportive services under this section to former participants who become employed. The county may provide these services for up to the first 12 months of employment to the extent they are not available from other sources and are needed for the individual to retain the employment.

SEC. 2. No appropriation pursuant to Section 15200 of the Welfare and Institutions Code shall be made for purposes of implementing this act.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.