

AMENDED IN ASSEMBLY JANUARY 4, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 479

Introduced by Assembly Member Nestande

February 15, 2011

~~An act relating to public social services.~~ *An act to amend Sections 11265.2, 11454, and 17021 of, to add Article 3.7 (commencing with Section 11340) to Chapter 2 of Part 3 of Division 9 of, and to repeal Section 11320.15 of, the Welfare and Institutions Code, relating to CalWORKs.*

LEGISLATIVE COUNSEL'S DIGEST

AB 479, as amended, Nestande. ~~In-Home Supportive Services program.~~ *CalWORKs.*

Existing federal law provides for allocation of federal funds through the federal Temporary Assistance for Needy Families (TANF) block grant program to eligible states. Existing law provides for the California Work Opportunity and Responsibility to Kids (CalWORKs) program under which, through a combination of state and county funds and federal funds received through the TANF program, each county provides cash assistance and other benefits to qualified low-income families. Existing law provides that a parent or caretaker relative shall not be eligible for CalWORKs aid when he or she has received aid for a cumulative total of 48 months.

This bill would, instead, provide that an assistance unit shall not be eligible for aid under CalWORKs when any member of the assistance unit has received aid for a cumulative total of 48 months. This bill would provide for continued aid after the 48-month time limit for a child who is a member of an assistance unit that no longer qualifies for aid, if the

child’s parent or caretaker relative complies with applicable work requirements, as specified. This bill would also make various conforming changes. Because counties determine eligibility for the CalWORKs program, by increasing county duties, this bill would impose a state-mandated local program.

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 these statutory provisions.

~~Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes.~~

~~This bill would provide that it is the intent of the Legislature to enact legislation that would implement reforms in the IHSS program, as specified, secure choice of provider for all eligible IHSS recipients within the chosen model, and ensure coordination of programs for the aging to emphasize the most cost-effective care for each IHSS recipient.~~

~~Vote: majority. Appropriation: no. Fiscal committee: no-yes. State-mandated local program: no-yes.~~

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

- 1 SECTION 1. Section 11265.2 of the Welfare and Institutions
- 2 Code, as amended by Section 8 of Chapter 501 of the Statutes of
- 3 2011, is amended to read:
- 4 11265.2. (a) The grant amount a recipient shall be entitled to
- 5 receive for each month of the quarterly reporting period shall be
- 6 prospectively determined as provided by this section. If a recipient
- 7 reports that he or she does not anticipate any changes in income
- 8 during the upcoming quarter, compared to the income the recipient
- 9 reported actually receiving on the quarterly report form, the grant
- 10 shall be calculated using the actual income received. If a recipient
- 11 reports that he or she anticipates a change in income in one or more
- 12 months of the upcoming quarter, the county shall determine
- 13 whether the recipient’s income is reasonably anticipated. The grant

1 shall be calculated using the income that the county determines is
2 reasonably anticipated in each of the three months of the upcoming
3 quarter.

4 (b) For the purposes of the quarterly reporting, prospective
5 budgeting system, income shall be considered to be “reasonably
6 anticipated” if the county is reasonably certain of the amount of
7 income and that the income will be received during the quarterly
8 reporting period. The county shall determine what income is
9 “reasonably anticipated” based on information provided by the
10 recipient and any other available information.

11 (c) If a recipient reports that his or her income in the upcoming
12 quarter will be different each month and the county needs
13 additional information to determine a recipient’s reasonably
14 anticipated income for the following quarter, the county may
15 require the recipient to provide information about income for each
16 month of the prior quarter.

17 (d) Grant calculations pursuant to subdivision (a) may not be
18 revised to adjust the grant amount during the quarterly reporting
19 period, except as provided in Section 11265.3 and subdivisions
20 (e), (f), (g), and (h), and as otherwise established by the department.

21 (e) Notwithstanding subdivision (d), statutes and regulations
22 relating to (1) the 48-month time limit, (2) age limitations for
23 children under Section 11253, ~~and~~ (3) *post-48 months continued*
24 *aid under Article 3.7 (commencing with Section 11340)*, and (4)
25 sanctions and financial penalties affecting eligibility or grant
26 amount shall be applicable as provided in those statutes and
27 regulations. Eligibility and grant amount shall be adjusted during
28 the quarterly reporting period pursuant to those statutes and
29 regulations effective with the first monthly grant after timely and
30 adequate notice is provided.

31 (f) Notwithstanding Section 11056, if an applicant applies for
32 assistance for a child who is currently aided in another assistance
33 unit, and the county determines that the applicant has care and
34 control of the child, as specified by the department, and is
35 otherwise eligible, the county shall discontinue aid to the child in
36 the existing assistance unit and shall aid the child in the applicant’s
37 assistance unit effective as of the first of the month following the
38 discontinuance of the child from the existing assistance unit.

39 (g) If the county is notified that a child for whom CalWORKs
40 assistance is currently being paid has been placed in a foster care

1 home, the county shall discontinue aid to the child at the end of
2 the month of placement. The county shall discontinue the case if
3 the remaining assistance unit members are not otherwise eligible.

4 (h) If the county determines that a recipient is no longer a
5 California resident, pursuant to Section 11100, the recipient shall
6 be discontinued. The county shall discontinue the case if the
7 remaining assistance unit members are not otherwise eligible.

8 (i) (1) A county shall comply with the quarterly reporting
9 provisions of this section until the county certifies to the director
10 that semiannual reporting has been implemented in the county.

11 (2) This section shall become inoperative on October 1, 2013,
12 and, as of January 1, 2014, is repealed, unless a later enacted
13 statute, that becomes operative on or before January 1, 2014,
14 deletes or extends the dates on which it becomes inoperative and
15 is repealed.

16 *SEC. 2. Section 11265.2 of the Welfare and Institutions Code,*
17 *as added by Section 9 of Chapter 501 of the Statutes of 2011, is*
18 *amended to read:*

19 11265.2. (a) The grant amount a recipient shall be entitled to
20 receive for each month of the semiannual reporting period shall
21 be prospectively determined as provided by this section. If a
22 recipient reports that he or she does not anticipate any changes in
23 income during the upcoming quarter, compared to the income the
24 recipient reported actually receiving on the semiannual report form,
25 the grant shall be calculated using the actual income received. If
26 a recipient reports that he or she anticipates a change in income in
27 one or more months of the upcoming semiannual period, the county
28 shall determine whether the recipient's income is reasonably
29 anticipated. The grant shall be calculated using the income that
30 the county determines is reasonably anticipated in each of the six
31 months of the upcoming semiannual period.

32 (b) For the purposes of the semiannual reporting, prospective
33 budgeting system, income shall be considered to be "reasonably
34 anticipated" if the county is reasonably certain of the amount of
35 income and that the income will be received during the semiannual
36 reporting period. The county shall determine what income is
37 "reasonably anticipated" based on information provided by the
38 recipient and any other available information.

39 (c) If a recipient reports that his or her income in the upcoming
40 semiannual period will be different each month and the county

1 needs additional information to determine a recipient's reasonably
2 anticipated income for the following semiannual period, the county
3 may require the recipient to provide information about income for
4 each month of the prior semiannual period.

5 (d) Grant calculations pursuant to subdivision (a) may not be
6 revised to adjust the grant amount during the semiannual reporting
7 period, except as provided in Section 11265.3 and subdivisions
8 (e), (f), (g), and (h), and as otherwise established by the department.

9 (e) Notwithstanding subdivision (d), statutes and regulations
10 relating to (1) the 48-month time limit, (2) age limitations for
11 children under Section 11253, ~~and~~ (3) *post-48 months continued*
12 *aid under Article 3.7 (commencing with Section 11340)*, and (4)
13 sanctions and financial penalties affecting eligibility or grant
14 amount shall be applicable as provided in those statutes and
15 regulations. Eligibility and grant amount shall be adjusted during
16 the semiannual reporting period pursuant to those statutes and
17 regulations effective with the first monthly grant after timely and
18 adequate notice is provided.

19 (f) Notwithstanding Section 11056, if an applicant applies for
20 assistance for a child who is currently aided in another assistance
21 unit, and the county determines that the applicant has care and
22 control of the child, as specified by the department, and is
23 otherwise eligible, the county shall discontinue aid to the child in
24 the existing assistance unit and shall aid the child in the applicant's
25 assistance unit effective as of the first of the month following the
26 discontinuance of the child from the existing assistance unit.

27 (g) If the county is notified that a child for whom CalWORKs
28 assistance is currently being paid has been placed in a foster care
29 home, the county shall discontinue aid to the child at the end of
30 the month of placement. The county shall discontinue the case if
31 the remaining assistance unit members are not otherwise eligible.

32 (h) If the county determines that a recipient is no longer a
33 California resident, pursuant to Section 11100, the recipient shall
34 be discontinued. The county shall discontinue the case if the
35 remaining assistance unit members are not otherwise eligible.

36 (i) (1) This section shall become operative on April 1, 2013. A
37 county shall implement the semiannual reporting requirements in
38 accordance with the act that added this section no later than October
39 1, 2013.

1 (2) Upon implementation described in paragraph (1), each
2 county shall provide a certificate to the director certifying that
3 semiannual reporting has been implemented in the county.

4 (3) Upon filing the certificate described in paragraph (2), a
5 county shall comply with the semiannual reporting provisions of
6 this section.

7 *SEC. 3. Section 11320.15 of the Welfare and Institutions Code*
8 *is repealed.*

9 ~~11320.15. After a participant has been removed from the~~
10 ~~assistance unit under subdivision (a) of Section 11454, additional~~
11 ~~welfare-to-work services may be provided to the recipient, at the~~
12 ~~option of the county. If the county provides services to the recipient~~
13 ~~after the 48-month limit has been reached, the recipient shall~~
14 ~~participate in community service or subsidized employment, as~~
15 ~~described in Section 11322.63.~~

16 *SEC. 4. Article 3.7 (commencing with Section 11340) is added*
17 *to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions*
18 *Code, to read:*

19
20 *Article 3.7. Post-48 Months Continued Aid for Children*

21
22 *11340. For purposes of this chapter, a child who is a member*
23 *of an assistance unit that no longer qualifies for aid pursuant to*
24 *Section 11454 may be eligible for post-48 months continued aid,*
25 *subject to the following requirements:*

26 *(a) A parent or caretaker relative with whom a child resides*
27 *complies with the work requirements of Section 11341. Both*
28 *parents in a two-parent household may contribute to the work*
29 *requirements of Section 11341.*

30 *(b) A parent or caretaker relative who has not, at any time, been*
31 *eligible for aid, or who has been ineligible pursuant to Section*
32 *11251.3 or 11486.5, complies with the work requirements of*
33 *Section 11341.*

34 *11341. (a) A parent or caretaker relative, as described in*
35 *Section 11340, shall comply with the work requirements, as defined*
36 *in Section 607(c) of Title 42 of the United States Code, unless the*
37 *parent or caretaker relative is either of the following:*

- 38 (1) *A nonneedy caretaker relative of the aided child.*
39 (2) *Currently receiving benefits under Section 12200.*

1 (b) Article 3.2 (commencing with Section 11320) shall not be
2 applicable to the work requirements of this article.

3 (c) Additional services may be provided to the parent or
4 caretaker relative at the option of the county, but the lack of these
5 services shall not excuse the parent or caretaker relative from
6 complying with the work requirements specified in subdivision (a).

7 (d) Except as provided in subdivision (a), there is no good cause
8 exception to, or other exemption from, the documentation and
9 work requirements of this article.

10 11342. (a) A child receiving post-48 months continued aid
11 shall be subject to discontinuance of aid as described in this
12 section.

13 (b) (1) Upon a determination that the parent or caretaker
14 relative, as described in Section 11340, has not complied with the
15 requirements of Section 11341, the county shall issue a notice of
16 action effective no earlier than 30 calendar days from the date of
17 issuance.

18 (2) The notice of action shall inform the parent or caretaker
19 relative that the post-48 months continued aid for the child will
20 be discontinued unless the county is provided with documentation,
21 as determined by the department, that the parent or caretaker
22 relative has complied with the requirements of Section 11341.

23 (3) Aid shall be discontinued unless the documentation described
24 in paragraph (2) is provided to the county prior to the expiration
25 of that 30-day period.

26 (4) Notwithstanding Article 3.5 (commencing with Section
27 11331), a pregnant or parenting teen, who is a head of household
28 and does not meet the requirements of Section 11341, shall be
29 subject to this section.

30 (c) A parent or caretaker relative, as described in Section 11340,
31 who fails to provide the required documentation or fails to comply
32 with the requirements of Section 11341, shall cause the
33 discontinuance of post-48 months continued aid for a child, as of
34 the first day of the next calendar month subsequent to the
35 expiration of the 30-day period specified in subdivision (b).

36 (d) The post-48 months continued aid for the child shall be
37 restored prospectively if the parent or caretaker relative meets the
38 requirements of Section 11341 and documentation, as determined
39 by the department, of meeting the requirements is provided to the
40 county. The post-48 months continued aid shall be restored as of

1 *the first day of the next calendar month subsequent to the date*
2 *upon which that documentation was provided to the county.*

3 *(e) The amount of the restored aid shall be based on the*
4 *eligibility of the child as of the date upon which aid is restored.*
5 *Eligibility shall be determined as follows:*

6 *(1) If the post-48 months continued aid is restored in accordance*
7 *with this subdivision within three calendar months of the date aid*
8 *was discontinued pursuant to subdivision (c), Section 11451.5*
9 *shall apply.*

10 *(2) If aid is restored after the expiration of the three-month*
11 *period described in paragraph (1), Section 11450.12 shall apply.*

12 *SEC. 5. Section 11454 of the Welfare and Institutions Code is*
13 *amended to read:*

14 ~~11454. (a) A parent or caretaker relative~~*(1) An assistance*
15 *unit shall not be eligible for aid under this chapter when he or she*
16 *any member of the assistance unit has received aid under this*
17 *chapter or from any state under the Temporary Assistance for*
18 *Needy Families program (Part A (commencing with Section 401)*
19 *of Title IV of the federal Social Security Act (42 U.S.C. Sec. 601*
20 *et seq.)) for a cumulative total of 48 months.*

21 *(2) When a member of an assistance unit becomes ineligible to*
22 *receive aid in accordance with paragraph (1), all members of the*
23 *assistance unit, whether or not each member has met the 48-month*
24 *time limit specified in paragraph (1), shall be ineligible to continue*
25 *to receive aid. All aid shall be discontinued for all of the members*
26 *of the assistance unit except children who may be eligible for*
27 *post-48 months continued aid in accordance with Article 3.7*
28 *(commencing with Section 11340) if a parent or caretaker relative*
29 *as described in Section 11340 complies with the work requirements*
30 *set forth in Section 11341.*

31 *(b) (1) Except as otherwise specified in subdivision (c), Section*
32 *11454.5, or other provisions of law, all months of aid received*
33 *under this chapter from January 1, 1998, to the operative date of*
34 *this section, inclusive, shall be applied to the 48-month time limit*
35 *described in subdivision (a).*

36 *(2) All months of aid received from January 1, 1998, to the*
37 *operative date of this section, inclusive, in any state pursuant to*
38 *the Temporary Assistance for Needy Families program (Part A*
39 *(commencing with Section 401) of Title IV of the federal Social*

1 Security Act (42 U.S.C. Sec. 601 et seq.)), shall be applied to the
2 48-month time limit described in subdivision (a).

3 (c) Subdivision (a) and paragraph (1) of subdivision (b) shall
4 not be applicable when all parents or caretaker relatives of the
5 aided child who are living in the home of the child meet any of
6 the following requirements:

7 (1) They are 60 years of age or older.

8 (2) They meet one of the conditions specified in paragraph (4)
9 or (5) of subdivision (b) of Section 11320.3.

10 (3) They are not included in the assistance unit.

11 (4) They are receiving benefits under Section 12200 or Section
12 12300, State Disability Insurance benefits or Workers'
13 Compensation Temporary Disability Insurance, if the disability
14 significantly impairs the recipient's ability to be regularly employed
15 or participate in welfare-to-work activities.

16 (5) They are incapable of maintaining employment or
17 participating in welfare-to-work activities, as determined by the
18 county, based on the assessment of the individual and the individual
19 has a history of participation and full cooperation in
20 welfare-to-work activities.

21 *SEC. 6. Section 17021 of the Welfare and Institutions Code is*
22 *amended to read:*

23 17021. (a) (1) Any individual who is not eligible for aid under
24 Chapter 2 (commencing with Section 11200) of Part 3 as a result
25 of the 48-month limitation specified in subdivision (a) of Section
26 11454 shall not be eligible for aid or assistance under this part
27 until all of the children of the individual on whose behalf aid was
28 received, whether or not currently living in the home with the
29 individual, are 18 years of age or older.

30 (2) *Any child who is not eligible for aid under Chapter 2*
31 *(commencing with Section 11200) of Part 3 as a result of the*
32 *48-month limitation specified in subdivision (a) of Section 11454*
33 *shall not be eligible for aid or assistance under this part, until he*
34 *or she turns 18 years of age.*

35 (b) (1) Any individual who is receiving aid under Chapter 2
36 (commencing with Section 11200) of Part 3 on behalf of an eligible
37 child, but who is either ineligible for aid or whose needs are not
38 otherwise taken into account in determining the amount of aid to
39 the family pursuant to Section 11450 due to the imposition of a

1 sanction or penalty, shall not be eligible for aid or assistance under
2 this part.

3 (2) *Any child who is either ineligible for aid under Chapter 2*
4 *(commencing with Section 11200) of Part 3 or whose needs are*
5 *not otherwise taken into account in determining the amount of aid*
6 *to the family pursuant to Section 11450 due to the imposition of a*
7 *sanction or penalty, shall not be eligible for aid or assistance*
8 *under this part until he or she turns 18 years of age.*

9 (c) This section shall not apply to health care benefits provided
10 under this part.

11 *SEC. 7. (a) Notwithstanding the rulemaking provisions of the*
12 *Administrative Procedure Act (Chapter 3.5 (commencing with*
13 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
14 *Code), the department may implement and administer the changes*
15 *made by this act through all-county letters or similar instructions*
16 *from the department until regulations are adopted. The department*
17 *shall adopt emergency regulations implementing these provisions*
18 *no later than July 1, 2013. The department may readopt any*
19 *emergency regulation authorized by this section that is the same*
20 *as or substantially equivalent to an emergency regulation*
21 *previously adopted under this section.*

22 (b) *The initial adoption of emergency regulations pursuant to*
23 *this section and one readoption of emergency regulations shall be*
24 *deemed an emergency and necessary for the immediate*
25 *preservation of the public peace, health, safety, or general welfare.*
26 *Initial emergency regulations and the one readoption of emergency*
27 *regulations authorized by this section shall be exempt from review*
28 *by the Office of Administrative Law. The initial emergency*
29 *regulations and the one readoption of emergency regulations*
30 *authorized by this section shall be submitted to the Office of*
31 *Administrative Law for filing with the Secretary of State and each*
32 *shall remain in effect for no more than 180 days, by which time*
33 *final regulations may be adopted.*

34 *SEC. 8. (a) If any portion of this act is held unconstitutional*
35 *or unenforceable by a court of law, that decision shall not affect*
36 *the validity of any other portion of this act. The Legislature hereby*
37 *declares that it would have passed this act, and each portion*
38 *thereof, irrespective of whether or not any other portion is declared*
39 *unconstitutional or unenforceable.*

1 (b) *It is the intent of the Legislature that the provisions of this*
2 *act that provide for a 48-month time limit for children receiving*
3 *assistance under the CalWORKs program shall apply retroactively*
4 *to any individual who received aid between January 1, 1998, and*
5 *January 1, 2013.*

6 *SEC. 9. If the Commission on State Mandates determines that*
7 *this act contains costs mandated by the state, reimbursement to*
8 *local agencies and school districts for those costs shall be made*
9 *pursuant to Part 7 (commencing with Section 17500) of Division*
10 *4 of Title 2 of the Government Code.*

11 ~~SECTION 1. It is the intent of the Legislature to enact~~
12 ~~legislation to do all of the following:~~

13 ~~(a) Implement reforms in the In-Home Supportive Services~~
14 ~~(IHSS) program patterned after the operational methodologies of~~
15 ~~other states where the methodologies provide home care for those~~
16 ~~who would be at risk of requiring skilled nursing care but at a~~
17 ~~significantly lower cost.~~

18 ~~(b) Secure choice of provider for all eligible IHSS recipients~~
19 ~~within the chosen model.~~

20 ~~(c) Ensure coordination of programs for the aging to emphasize~~
21 ~~the most cost-effective care for each IHSS recipient.~~