

ASSEMBLY BILL

No. 1776

Introduced by Assembly Member Nazarian

February 18, 2014

An act to amend Section 10952 of, and to add Sections 10968 and 10969 to, the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1776, as introduced, Nazarian. Public social services: hearings.

Existing law authorizes an applicant for, or recipient of, public social services who is dissatisfied with certain actions of the county welfare department to request a hearing from the state department administering the social services. Existing law requires the state department administering the social services to set the hearing to commence within 30 working days after the request is filed, and to give written notice to the parties at least 10 days prior to the hearing. Existing law requires the hearing to be conducted by an administrative law judge, with an exception, and authorizes the administrative law judge, under certain circumstances, to render and adopt final decisions, with which decision the county director is required to comply and execute.

This bill would authorize a recipient requesting a hearing to access communications and notices electronically, rather than receiving those communications by mail, in counties where that electronic communication is available. The bill would require the State Department of Social Services and the State Department of Public Health, in consultation with recipient advocates and representatives of county human services departments, to develop a process for recipients to choose to receive notices or other communications electronically, and

to establish statewide protocols relating to the failure of electronic communication to ensure timely receipt of hearing-related information.

This bill would require the county representative to offer the recipient a conditional withdrawal or notice of action, as specified, if a hearing concerns a recipient’s eligibility for a benefit or service and the county representative finds that certain acts or evidence would establish the recipient’s eligibility for that benefit or service or concludes that the county erred. The bill would require the conditional withdrawal to list the agreed-upon conditions that the recipient is required to meet, and require the county to issue any benefits for which the recipient is eligible following the recipient’s meeting of those conditions.

By imposing a higher level of service on counties, 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.

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

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

- 1 SECTION 1. Section 10952 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 10952. The department shall set the hearing to commence
- 4 within 30 working days after the request is filed; and, at least 10
- 5 days prior to the hearing, shall give all parties concerned written
- 6 notice of the time and place of the hearing. *This notice may be*
- 7 *provided to a recipient electronically if he or she has opted for*
- 8 *electronic access pursuant to Section 10968.*
- 9 SEC. 2. Section 10968 is added to the Welfare and Institutions
- 10 Code, to read:
- 11 10968. (a) This section shall be known, and may be cited, as
- 12 the State Hearings Efficiency Act of 2014.
- 13 (b) A recipient requesting a hearing may, at any time, in writing,
- 14 choose to access communications and notices electronically, rather
- 15 than receiving those communications by mail, in counties where

1 that electronic communication is available. If the recipient chooses
2 to access communications electronically, the recipient shall be
3 informed in writing of his or her right to opt out of the electronic
4 communications designation at any time, in accordance with
5 subdivision (e) and pursuant to federal law.

6 (c) The State Department of Social Services and the State
7 Department of Public Health, in consultation with recipient
8 advocates and representatives of county human services
9 departments, shall develop a process by which recipients may
10 choose to receive electronically notices of action or other
11 communications relevant to the hearing. In developing this process,
12 the departments shall ensure that the due process and privacy rights
13 of all recipients are protected.

14 (d) A notice or other form of communication shall not be sent
15 electronically unless that method of communication has been
16 affirmatively requested by the recipient. A record of the request
17 and of each notice and communication sent electronically shall be
18 maintained in the recipient's case file for three years, as required
19 by Section 10851.

20 (e) A recipient may, in writing, in person, by telephone, or by
21 electronic means, opt out of the electronic notices designation. A
22 request to opt out shall be processed as soon as administratively
23 possible.

24 (f) (1) All communications sent or made available electronically
25 to recipients of aid shall be sent or made available using a secured
26 server and shall require a password for access. Notices and official
27 communications relating to a state hearing shall not be sent in the
28 body of an email or as an attachment to an email.

29 (2) Each electronic communication or Internet Web site where
30 electronic communications are accessed shall inform recipients of
31 their right to opt out of receiving electronic communications at
32 any time, with instructions for how to do so.

33 (g) The State Department of Social Services, in conjunction
34 with the State Department of Public Health, shall implement a
35 system for determining when an electronic communication has
36 failed, and shall establish statewide protocols relating to failed
37 electronic communications to ensure timely receipt of
38 hearing-related information. These protocols, at a minimum, shall
39 require that the failed communication be mailed to the recipient
40 and that the electronic communication designation be terminated

1 until it is again requested by the recipient. A county may establish
2 its own process for addressing failed electronic communications,
3 if either department certifies that the process complies with the
4 statewide protocols established pursuant to subdivision (b).

5 SEC. 3. Section 10969 is added to the Welfare and Institutions
6 Code, to read:

7 10969. (a) If a hearing concerns a recipient’s eligibility for a
8 benefit or service and the county representative finds that certain
9 acts or evidence would establish the recipient’s eligibility for that
10 benefit or service or concludes that the county erred, the county
11 representative shall offer the recipient a conditional withdrawal.
12 The conditional withdrawal shall list the agreed-upon conditions
13 that the recipient is required to meet, which may include, but are
14 not limited to, providing specific information. The conditional
15 withdrawal shall include the requirements that the county
16 reevaluate the case following the recipient meeting those
17 conditions, and if the recipient is determined to be eligible for
18 benefits or services, the county shall issue those benefits or provide
19 those services for which the recipient is determined to be eligible.

20 (b) In order to prevent multiple costly filings of state hearings,
21 if the hearing concerns the validity of a CalWORKs overpayment,
22 a CalFresh benefit overissuance allegation, or both, and the county
23 representative does not find evidence adequate to support the
24 allegation of the validity of the overpayment, overissuance, or
25 both, then the county representative shall offer the recipient a
26 conditional withdrawal agreeing both to permanently cancel the
27 allegation of the overpayment, overissuance, or both, and to refund
28 to the recipient any money already collected toward repayment of
29 the alleged overpayment, overissuance, or both.

30 (c) In order to avoid reopening a conditionally withdrawn
31 hearing, the county may issue a notice of action to the recipient
32 describing its compliance with the terms of the conditional
33 withdrawal. Any aid paid pending the outcome of the hearing shall
34 continue until the notice of action complying with the terms of the
35 conditional withdrawal is issued.

36 SEC. 4. If the Commission on State Mandates determines that
37 this act contains costs mandated by the state, reimbursement to
38 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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