

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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 amended, 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, Services, in consultation with recipient advocates and representatives of county human services departments, the State Department of Health Care

Services, 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. The bill would also require the State Department of Social Services to submit a request to the United States Department of Agriculture to waive specified federal regulations to allow for the use of electronic notification of scheduled fair hearings and fair hearing decisions.

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.

1 SEC. 2. Section 10968 is added to the Welfare and Institutions
2 Code, to read:

3 10968. (a) This section shall be known, and may be cited, as
4 the State Hearings Efficiency Act of 2014.

5 (b) A recipient requesting a hearing may, at any time, in writing,
6 choose to access communications and notices electronically, rather
7 than receiving those communications by mail, in counties where
8 that electronic communication is available. If the recipient chooses
9 to access communications electronically, the recipient shall be
10 informed in writing of his or her right to opt out of the electronic
11 communications designation at any time, in accordance with
12 subdivision (e) and pursuant to federal law.

13 (c) ~~The State Department of Social Services and the State~~
14 ~~Department of Public Health, Services, in consultation with~~
15 ~~recipient advocates and representatives of county human services~~
16 ~~departments, the State Department of Health Care Services, shall~~
17 develop a process by which recipients may choose to receive
18 electronically notices of action or other communications relevant
19 to the hearing. In developing this process, the departments shall
20 ensure that the due process and privacy rights of all recipients are
21 protected.

22 (d) A notice or other form of communication shall not be sent
23 electronically unless that method of communication has been
24 affirmatively requested by the recipient. A record of the request
25 and of each notice and communication sent electronically shall be
26 maintained in the recipient's case file for three years, as required
27 by Section 10851.

28 (e) A recipient may, in writing, in person, by telephone, or by
29 electronic means, opt out of the electronic notices designation. A
30 request to opt out shall be processed as soon as administratively
31 possible.

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

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

1 (g) The State Department of Social Services, in ~~conjunction~~
2 ~~with the State Department of Public Health~~, *consultation with the*
3 *State Department of Health Care Services*, shall implement a
4 system for determining when an electronic communication has
5 failed, and shall establish statewide protocols relating to failed
6 electronic communications to ensure timely receipt of
7 hearing-related information. These protocols, at a minimum, shall
8 require that the failed communication be mailed to the recipient
9 and that the electronic communication designation be terminated
10 until it is again requested by the recipient. A county may establish
11 its own process for addressing failed electronic communications,
12 if either department certifies that the process complies with the
13 statewide protocols established pursuant to subdivision (b).

14 (h) *The State Department of Social Services shall submit a*
15 *request to the United States Department of Agriculture to waive*
16 *Sections 273.15(c)(1) and 273.15(q) of Title 7 of the Code of*
17 *Federal Regulations to allow for the use of electronic notification*
18 *of scheduled fair hearings and fair hearing decisions.*

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

21 10969. (a) If a hearing concerns a recipient's eligibility for a
22 benefit or service and the county representative finds that certain
23 acts or evidence would establish the recipient's eligibility for that
24 benefit or service or concludes that the county erred, the county
25 representative shall offer the recipient a conditional withdrawal.
26 The conditional withdrawal shall list the agreed-upon conditions
27 that the recipient is required to meet, which may include, but are
28 not limited to, providing specific information. The conditional
29 withdrawal shall include the requirements that the county
30 reevaluate the case following the recipient meeting those
31 conditions, and if the recipient is determined to be eligible for
32 benefits or services, the county shall issue those benefits or provide
33 those services for which the recipient is determined to be eligible.

34 (b) In order to prevent multiple costly filings of state hearings,
35 if the hearing concerns the validity of a CalWORKs overpayment,
36 a CalFresh benefit overissuance allegation, or both, and the county
37 representative does not find evidence adequate to support the
38 allegation of the validity of the overpayment, overissuance, or
39 both, then the county representative shall offer the recipient a
40 conditional withdrawal agreeing both to permanently cancel the

1 allegation of ~~the~~ *that specific* overpayment, overissuance, or both,
2 and to refund to the recipient any money already collected toward
3 repayment of the alleged overpayment, overissuance, or ~~both~~. *both,*
4 *to the extent permitted by federal law. If the recipient conditionally*
5 *withdraws his or her hearing request and both the recipient and*
6 *the county sign an agreement, the county shall not pursue the*
7 *allegation of that specific overpayment, overissuance, or both.*

8 (c) In order to avoid reopening a conditionally withdrawn
9 hearing, the county may issue a notice of action to the recipient
10 describing its compliance with the terms of the conditional
11 withdrawal. Any aid paid pending the outcome of the hearing shall
12 continue until the notice of action complying with the terms of the
13 conditional withdrawal is issued.

14 SEC. 4. If the Commission on State Mandates determines that
15 this act contains costs mandated by the state, reimbursement to
16 local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.