

AMENDED IN ASSEMBLY MAY 27, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2552

Introduced by Assembly Member Holden

February 19, 2016

An act to amend Section 11461.3 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2552, as amended, Holden. CalWORKs: relative caregivers.

Existing law requires each county to provide cash assistance and other social services to needy families through the California Work Opportunity and Responsibility to Kids (CalWORKs) program using federal Temporary Assistance to Needy Families (TANF) block grant program, state, and county funds. Existing law specifies the amounts of cash aid to be paid each month to CalWORKs recipients.

Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. Under existing law, a child who is placed in the approved home of a relative is eligible for AFDC-FC if he or she is eligible for federal financial participation in the AFDC-FC payment, as specified. Existing law provides for benefits for a child who is placed in the approved home of a relative and who is ineligible for AFDC-FC pursuant to the CalWORKs program. Existing law establishes the Approved Relative Caregiver Funding Option Program in counties choosing to participate, for the purpose of making the amount paid to relative caregivers for the in-home care of children placed with them

who are ineligible for AFDC-FC payments equal to the amount paid on behalf of children who are eligible for AFDC-FC payments.

This bill would ~~require~~ *require, until January 1, 2020, and subject to the availability of funds*, counties participating in the Approved Relative Caregiver Funding Option Program to pay to an approved relative caregiver, for each child eligible for benefits pursuant to the program, an annual clothing allowance of \$240 for a cumulative total of three years.

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.

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

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

- 1 SECTION 1. Section 11461.3 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 11461.3. (a) The Approved Relative Caregiver Funding Option
- 4 Program is hereby established for the purpose of making the
- 5 amount paid to approved relative caregivers for the in-home care
- 6 of children placed with them who are ineligible for AFDC-FC
- 7 payments equal to the amount paid on behalf of children who are
- 8 eligible for AFDC-FC payments. This is an optional program for
- 9 counties choosing to participate, and in so doing, participating
- 10 counties agree to the terms of this section as a condition of their
- 11 participation. It is the intent of the Legislature that the funding
- 12 described in paragraph (1) of subdivision (g) for the Approved
- 13 Relative Caregiver Funding Option Program be appropriated, and
- 14 available for use from January through December of each year,
- 15 unless otherwise specified.
- 16 (b) (1) Subject to subdivision (e), effective January 1, 2015,
- 17 participating counties shall pay an approved relative caregiver a
- 18 per child per month rate in return for the care and supervision, as
- 19 defined in subdivision (b) of Section 11460, of a child that is placed
- 20 with the relative caregiver that is equal to the basic rate paid to
- 21 foster care providers pursuant to subdivision (g) of Section 11461,
- 22 if both of the following conditions are met:

1 (A) The county with payment responsibility has notified the
2 department in writing by October 1 of the year before participation
3 begins of its decision to participate in the Approved Relative
4 Caregiver Funding Option Program.

5 (B) The related child placed in the home meets all of the
6 following requirements:

7 (i) The child resides in California.

8 (ii) The child is described by subdivision (b), (c), or (e) of
9 Section 11401 and the county welfare department or the county
10 probation department is responsible for the placement and care of
11 the child.

12 (iii) The child is not eligible for AFDC-FC while placed with
13 the approved relative caregiver because the child is not eligible
14 for federal financial participation in the AFDC-FC payment.

15 (2) ~~Participating~~ *Until January 1, 2020, and subject to the*
16 *availability of funds, participating* counties shall pay to an
17 approved relative caregiver, for each child eligible for benefits
18 pursuant to this section, an annual clothing allowance of two
19 hundred forty dollars (\$240). The clothing allowance shall be paid
20 for a cumulative total of three years.

21 (c) Any income or benefits received by an eligible child or the
22 approved relative caregiver on behalf of the eligible child that
23 would be offset against the basic rate paid to a foster care provider
24 pursuant to subdivision (g) of Section 11461, shall be offset from
25 any funds that are not CalWORKs funds paid to the approved
26 relative caregiver pursuant to this section.

27 (d) Participating counties shall recoup an overpayment in the
28 Approved Relative Caregiver Funding Option Program received
29 by an approved relative caregiver using the standards and processes
30 for overpayment recoupment that are applicable to overpayments
31 to an approved home of a relative, as specified in Section 11466.24.
32 Recouped overpayments shall not be subject to remittance to the
33 federal government. Any overpaid funds that are collected by the
34 participating counties shall be remitted to the state after subtracting
35 both of the following:

36 (1) An amount not to exceed the county share of the CalWORKs
37 portion of the Approved Relative Caregiver Funding Option
38 Program payment, if any.

39 (2) Any other county funds that were included in the Approved
40 Relative Caregiver Funding Option Program payment.

(e) A county's election to participate in the Approved Relative Caregiver Funding Option Program shall affirmatively indicate that the county understands and agrees to all of the following conditions:

(1) Commencing October 1, 2014, the county shall notify the department in writing of its decision to participate in the Approved Relative Caregiver Funding Option Program. Failure to make timely notification, without good cause as determined by the department, shall preclude the county from participating in the program for the upcoming calendar year. Annually thereafter, any county not already participating who elects to do so shall notify the department in writing no later than October 1 of its decision to participate for the upcoming calendar year.

(2) The county shall confirm that it will make per child per month payments to all approved relative caregivers on behalf of eligible children in the amount specified in subdivision (b) for the duration of the participation of the county in this program.

(3) The county shall confirm that it will be solely responsible to pay any additional costs needed to make all payments pursuant to subdivision (b) if the state and federal funds allocated to the Approved Relative Caregiver Funding Option Program pursuant to paragraph (1) of subdivision (g) are insufficient to make all eligible payments.

(f) (1) A county deciding to opt out of the Approved Relative Caregiver Funding Option Program shall provide at least 120 days' prior written notice of that decision to the department. Additionally, the county shall provide at least 90 days' prior written notice to the approved relative caregiver or caregivers informing them that his or her per child per month payment will be reduced and the date that the reduction will occur.

(2) The department shall presume that all counties have opted out of the Approved Relative Caregiver Funding Option Program if the funding appropriated for the current 12-month period is reduced below the amount specified in subparagraph (B), subparagraph (C), or subparagraph (D) of paragraph (2) of subdivision (g) for that 12-month period, unless a county notifies the department in writing of its intent to opt in within 60 days of enactment of the State Budget. The counties shall provide at least 90 days' prior written notice to the approved relative caregiver or

1 caregivers informing them that his or her per child per month
2 payment will be reduced, and the date that reduction will occur.

3 (3) Any reduction in payments received by an approved relative
4 caregiver on behalf of a child under this section that results from
5 a decision by a county, including the presumed opt-out pursuant
6 to paragraph (2), to not participate in the Approved Relative
7 Caregiver Funding Option Program shall be exempt from state
8 hearing jurisdiction under Section 10950.

9 (g) (1) The following funding shall be used for the Approved
10 Relative Caregiver Funding Option Program:

11 (A) The applicable regional per-child CalWORKs grant, in
12 accordance with subdivision (a) of Section 11253.4.

13 (B) General Fund resources, as appropriated in paragraph (2).

14 (C) County funds only to the extent required under paragraph
15 (3) of subdivision (e).

16 (D) Funding described in subparagraphs (A) and (B) is intended
17 to fully fund the base caseload of approved relative caregivers,
18 which is defined as the number of approved relative caregivers
19 caring for a child who is not eligible to receive AFDC-FC
20 payments, as of July 1, 2014.

21 (2) The following amount is hereby appropriated from the
22 General Fund as follows:

23 (A) The sum of fifteen million dollars (\$15,000,000), for the
24 period of January 1, 2015, to June 30, 2015, inclusive.

25 (B) For the period of July 1, 2015, to June 30, 2016, inclusive,
26 there shall be appropriated an amount equal to the sum of all of
27 the following:

28 (i) Two times the amount appropriated pursuant to subparagraph
29 (A), inclusive of any increase pursuant to paragraph (3).

30 (ii) The amount necessary to increase or decrease the
31 CalWORKs funding associated with the base caseload described
32 in subparagraph (D) of paragraph (1) to reflect any change from
33 the prior fiscal year in the applicable regional per-child CalWORKs
34 grant described in subparagraph (A) of paragraph (1).

35 (iii) The additional amount necessary to fully fund the base
36 caseload described in subparagraph (D) of paragraph (1), reflective
37 of the annual California Necessities Index increase to the basic
38 rate paid to foster care providers.

39 (C) For every 12-month period thereafter, commencing with
40 the period of July 1, 2016, to June 30, 2017, inclusive, the sum of

1 all of the following shall be appropriated for purposes of this
2 section:

3 (i) The total General Fund amount provided pursuant to this
4 paragraph for the previous 12-month period.

5 (ii) The amount necessary to increase or decrease the
6 CalWORKs funding associated with the base caseload described
7 in subparagraph (D) of paragraph (1) to reflect any change from
8 the prior fiscal year in the applicable regional per-child CalWORKs
9 grant described in subparagraph (A) of paragraph (1).

10 (iii) The additional amount necessary to fully fund the base
11 caseload described in subparagraph (D) of paragraph (1), reflective
12 of the annual California Necessities Index increase to the basic
13 rate paid to foster care providers.

14 (D) Notwithstanding clauses (ii) and (iii) of subparagraph (B)
15 and clauses (ii) and (iii) of subparagraph (C), the total General
16 Fund appropriation made pursuant to subparagraph (B) shall not
17 be less than the greater of the following amounts:

18 (i) Thirty million dollars (\$30,000,000).

19 (ii) Two times the amount appropriated pursuant to subparagraph
20 (A), inclusive of any increase pursuant to paragraph (3).

21 (3) To the extent that the appropriation made by subparagraph
22 (A) of paragraph (2) is insufficient to fully fund the base caseload
23 of approved relative caregivers as of July 1, 2014, as described in
24 subparagraph (D) of paragraph (1), for the period of January 1,
25 2015, to June 30, 2015, inclusive, as jointly determined by the
26 department and the County Welfare Directors' Association and
27 approved by the Department of Finance on or before October 1,
28 2015, the amount specified in subparagraph (A) of paragraph (2)
29 shall be increased by the amount necessary to fully fund that base
30 caseload.

31 (4) Funds available pursuant to paragraph (2) shall be allocated
32 to participating counties proportionate to the number of their
33 approved relative caregiver placements, using a methodology and
34 timing developed by the department, following consultation with
35 county human services agencies and their representatives.

36 (5) Notwithstanding subdivision (e), if in any calendar year the
37 entire amount of funding appropriated by the state for the Approved
38 Relative Caregiver Funding Option Program has not been fully
39 allocated to or utilized by participating counties, a participating
40 county that has paid any funds pursuant to subparagraph (C) of

1 paragraph (1) of subdivision (g) may request reimbursement for
2 those funds from the department. The authority of the department
3 to approve the requests shall be limited by the amount of available
4 unallocated funds.

5 (h) An approved relative caregiver receiving payments on behalf
6 of a child pursuant to this section shall not be eligible to receive
7 additional CalWORKs payments on behalf of the same child under
8 Section 11450.

9 (i) To the extent permitted by federal law, payments received
10 by the approved relative caregiver from the Approved Relative
11 Caregiver Funding Option Program shall not be considered income
12 for the purpose of determining other public benefits.

13 (j) Prior to referral of any individual or recipient, or that person's
14 case, to the local child support agency for child support services
15 pursuant to Section 17415 of the Family Code, the county human
16 services agency shall determine if an applicant or recipient has
17 good cause for noncooperation, as set forth in Section 11477.04.
18 If the applicant or recipient claims good cause exception at any
19 subsequent time to the county human services agency or the local
20 child support agency, the local child support agency shall suspend
21 child support services until the county social services agency
22 determines the good cause claim, as set forth in Section 11477.04.
23 If good cause is determined to exist, the local child support agency
24 shall suspend child support services until the applicant or recipient
25 requests their resumption, and shall take other measures that are
26 necessary to protect the applicant or recipient and the children. If
27 the applicant or recipient is the parent of the child for whom aid
28 is sought and the parent is found to have not cooperated without
29 good cause as provided in Section 11477.04, the applicant's or
30 recipient's family grant shall be reduced by 25 percent for the time
31 the failure to cooperate lasts.

32 (k) Consistent with Section 17552 of the Family Code, if aid is
33 paid under this chapter on behalf of a child who is under the
34 jurisdiction of the juvenile court and whose parent or guardian is
35 receiving reunification services, the county human services agency
36 shall determine, prior to referral of the case to the local child
37 support agency for child support services, whether the referral is
38 in the best interest of the child, taking into account both of the
39 following:

1 (1) Whether the payment of support by the parent will pose a
2 barrier to the proposed reunification in that the payment of support
3 will compromise the parent's ability to meet the requirements of
4 the parent's reunification plan.

5 (2) Whether the payment of support by the parent will pose a
6 barrier to the proposed reunification in that the payment of support
7 will compromise the parent's current or future ability to meet the
8 financial needs of the child.

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