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CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1654

Introduced by Assembly Member Aroner
(Coauthors: Assembly Members Bowen, Honda, Knox,
Kuehl, Machado, Migden, Ortiz, Washington, and Woods)
(Coauthor: Senator Lee)

January 8, 1998

An act to amend Sections *16118*, 16119, 16120.05, 16120.1, and 16121.05 of the Welfare and Institutions Code, relating to human services, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1654, as amended, Aroner. Adoption assistance.

Existing law provides for the payment, by the State Department of Social Services and counties, of cash assistance to eligible families that adopt eligible children, and bases the amount of the payment on the financial circumstances of the family. Existing law also limits the amount of nonrecurring expense payments to \$400.

Existing law specifies what county shall be responsible for determining a child's eligibility under the Adoption Assistance Program and for providing financial aid.

This bill would revise the responsibility of counties with respect to children relinquished for adoption prior to a determination of eligibility to make the county in which the relinquishing parent resides responsible for the eligibility determination and for providing financial aid.

This bill would revise the adoptive program eligibility standards, would increase to \$750 the maximum amount permitted for nonrecurring expense payments, would specify that the payment shall be the amount of the foster care payment for which the child would have been eligible had he or she been placed in a licensed foster home. The bill would also revise references to renewal of the adoption assistance agreement to refer instead to a reassessment of the child's needs.

Existing law requires the department to determine when an adoption assistance overpayment has been made to an adoptive family when a child has not received services for which the adoption assistance benefits were authorized and to recover overpayment of adoption assistance benefits.

This bill would recast that requirement to specify that the adoption overpayments would result if the adoptive parents are no longer legally responsible for the support of the child or the child is no longer receiving support from the adoptive parents.

Since state funds are continuously appropriated to pay for a share of the cost of adoption assistance payments, the bill would, by increasing the payment amounts to which certain adoptive parents would be entitled, constitute an appropriation.

By increasing the responsibilities of counties, this bill would result in 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do



not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. *Section 16118 of the Welfare and*
2 *Institutions Code is amended to read:*

3 16118. (a) The department shall establish and
4 administer the program to be carried out by the
5 department or the county pursuant to this chapter. The
6 department shall adopt any regulations necessary to carry
7 out the provisions of this chapter.

8 (b) The department shall keep any records necessary
9 to evaluate the program's effectiveness in encouraging
10 and promoting the adoption of children eligible for the
11 Adoption Assistance Program.

12 (c) The department or the county responsible for
13 providing financial aid in the amount determined in
14 Section 16120 shall have responsibility for certifying that
15 the child meets the eligibility criteria and for
16 determining the amount of financial assistance needed by
17 the child and the adopting family.

18 (d) The department shall actively seek and make
19 maximum use of federal funds that may be available for
20 the purposes of this chapter. All gifts or grants received
21 from private sources for the purpose of this chapter shall
22 be used to offset public costs incurred under the program
23 established by this chapter.

24 (e) For purposes of this chapter, the county
25 responsible for determining the child's Adoption
26 Assistance Program eligibility status and for providing
27 financial aid in the amount determined in Sections 16120
28 and 16120.1 shall be the county that at the time of the
29 adoptive placement would otherwise be responsible for



1 making a payment pursuant to Section 11450 under the
2 ~~Aid to Families with Dependent Children CalWORKs~~
3 program or Section 11461 under the Aid to Families with
4 Dependent Children-Foster Care program if the child
5 were not adopted. *When the child has been voluntarily*
6 *relinquished for adoption prior to a determination of*
7 *eligibility for such a payment, the responsible county shall*
8 *be the county in which the relinquishing parent resides.*
9 The responsible county for all other eligible children shall
10 be the county where the child is physically residing prior
11 to placement with the adoptive family. The responsible
12 county shall certify eligibility on a form prescribed by the
13 department.

14 SEC. 2. Section 16119 of the Welfare and Institutions
15 Code is amended to read:

16 16119. (a) At the time application for adoption of a
17 child who is potentially eligible for Adoption Assistance
18 Program benefits is made, the department or the licensed
19 adoption agency, whichever is appropriate, shall provide
20 the prospective adoptive family with information, in
21 writing, on the availability of Adoption Assistance
22 Program benefits, with an explanation of the difference
23 between these benefits and foster care payments. The
24 department or the licensed adoption agency shall also
25 provide the prospective adoptive family with
26 information, in writing, on the availability of
27 reimbursement for the nonrecurring expenses incurred
28 in the adoption of the Adoption Assistance Program
29 eligible child. The department or licensed adoption
30 agency shall also provide the prospective adoptive family
31 with information on the availability of mental health
32 services through the Medi-Cal program or other
33 programs.

34 (b) The department or the county, whichever is
35 responsible for determining the child's eligibility for the
36 Adoption Assistance Program, shall assess the needs of the
37 child and the resources of the family to meet those needs.

38 (c) The amount of an adoption assistance cash benefit,
39 if any, shall be a negotiated amount based upon the needs
40 of the child and the circumstances of the family. There



1 shall be no means test used to determine an adoptive
2 family's eligibility for the Adoption Assistance Program.
3 In those instances where an otherwise eligible child does
4 not require a cash benefit, Medi-Cal eligibility may be
5 established for the child, as needed.

6 (d) The department or the licensed adoption agency
7 shall inform the prospective adoptive family regarding
8 the county responsible for providing financial aid to the
9 adoptive family in an amount determined pursuant to
10 Sections 16120 and 16120.1.

11 (e) The department or the licensed adoption agency
12 shall inform the prospective adoptive family that the
13 adoptive parents will continue to receive benefits in the
14 agreed upon amount unless one of the following occurs:

15 (1) The department determines that the adoptive
16 parents are no longer legally responsible for the support
17 of the child.

18 (2) The department determines that the child is no
19 longer receiving support from the adoptive family.

20 (3) The adoption assistance payment exceeds the
21 amount that the child would have been eligible for in a
22 licensed foster home.

23 (4) The adoptive parents demonstrate a need for an
24 increased payment based on a change in the child's
25 condition.

26 (5) The adoptive parents voluntarily reduce or
27 terminate payments.

28 ~~SEC. 2.~~

29 *SEC. 3.* Section 16120.05 of the Welfare and
30 Institutions Code is amended to read:

31 16120.05. The adoption assistance agreement shall, at
32 a minimum, specify the amount and duration of
33 assistance. The date for reassessment of the child's needs
34 shall be set at the time of the initial negotiation of the
35 adoption assistance agreement, and shall, thereafter be
36 set at each subsequent reassessment. The interval
37 between any reassessments may not exceed two years.
38 The reassessment period shall be based on the specific
39 qualifying condition of the child, and if applicable,
40 documented by a licensed competent professional,



1 operating within the scope of his or her profession, as to
2 the diagnosis and prognosis of the child.

3 The adoption assistance agreement shall also specify
4 the responsibility of the adopting family for reporting
5 changes in circumstances that might negatively affect
6 their ability to provide for the identified needs of the
7 child.

8 ~~SEC. 3.—~~

9 *SEC. 4.* Section 16120.1 of the Welfare and Institutions
10 Code is amended to read:

11 16120.1. Upon the authorization of the department or,
12 where appropriate, the county responsible for
13 determining the child's Adoption Assistance Program
14 eligibility status and for providing financial aid, the
15 responsible county shall directly reimburse eligible
16 individuals for reasonable nonrecurring expenses, as
17 defined by the department, incurred as a result of the
18 adoption of a child eligible for the Adoption Assistance
19 Program. The state shall provide payment to the county
20 for the reimbursement. Reimbursements shall conform
21 to the eligibility criteria and claiming procedures
22 established by the department and shall be subject to the
23 following conditions:

24 (a) The amount of the payment shall be determined
25 through agreement between the adopting parent or
26 parents and the department or the county responsible for
27 determining the child's Adoption Assistance Program
28 eligibility status and for providing financial aid. The
29 agreement shall indicate the nature and the amount of
30 the nonrecurring expenses to be paid. Payments shall be
31 limited to an amount not to exceed seven hundred fifty
32 dollars (\$750) for each placement eligible for the
33 Adoption Assistance Program.

34 (b) There shall be no income eligibility requirement
35 for an adoptive parent or adoptive parents in
36 determining whether payments for nonrecurring
37 expenses shall be made.

38 (c) Reimbursement for nonrecurring expenses shall
39 be limited to costs incurred by or on behalf of an adoptive
40 parent or adoptive parents that are not reimbursed from



1 other sources. No payments shall be made under this
2 section if the federal program for reimbursement of
3 nonrecurring expenses for the adoption of children
4 eligible for the Adoption Assistance Program pursuant to
5 Section 673 of Title 42 of the United States Code is
6 terminated.

7 (d) Reimbursement for nonrecurring expenses shall
8 be in addition to any adoption expenses paid pursuant to
9 Section 16121 and shall not be included in the
10 computation of maximum benefits for which the adoptive
11 family is eligible pursuant to Section 16121.

12 ~~SEC. 4.—~~

13 *SEC. 5.* Section 16121.05 of the Welfare and
14 Institutions Code is amended to read:

15 16121.05. (a) The department may recover any
16 overpayments of financial assistance under the Adoption
17 Assistance Program, and shall develop regulations that
18 establish the means to recoup them, including an
19 appropriate notice of action and appeal rights, when the
20 department determines either of the following applies:

21 (1) The adoptive parents are no longer legally
22 responsible for the support of the child.

23 (2) The child is no longer receiving support from the
24 adoptive family.

25 (b) Children on whose behalf an adoption assistance
26 agreement had been executed prior to October 1, 1992,
27 shall continue to receive adoption assistance in
28 accordance with the terms of that agreement.

29 (c) Payment shall begin on or after the effective date
30 of an adoption assistance agreement, or a deferred
31 adoption assistance agreement, or a final decree of
32 adoption, provided the adoption assistance agreement
33 has been signed by all required parties prior to or at the
34 time the adoption decree is issued by the court.

35 (d) Children on whose behalf an aid for adoption of
36 children agreement had been executed prior to October
37 1, 1982, shall continue to receive aid for adoption of
38 children benefits in accordance with the terms of that
39 agreement. This aid for adoption of children agreement
40 may be renewed, provided total benefits do not exceed



1 five years. Prior to the end of the five-year period, if there
 2 is a continuing need related to a chronic health condition
 3 of the child that necessitated the initial financial
 4 assistance, the time period for which it may be given shall
 5 be determined by the department or the agency, but shall
 6 not extend past the time that the child reaches 18 years
 7 of age. Prior to the expiration of the extension period, if
 8 there is a continuing need, a parent may petition the
 9 department or the designated licensed adoption agency
 10 for a new period of termination. The department or the
 11 agency shall make its determination regarding the
 12 financial ability of the parents to meet the continuing
 13 medical needs of the child's health condition at the time
 14 of adoption, taking into consideration community
 15 resources.

16 *SEC. 6. Notwithstanding Section 17610 of the*
 17 *Government Code, if the Commission on State Mandates*
 18 *determines that this act contains costs mandated by the*
 19 *state, reimbursement to local agencies and school*
 20 *districts for those costs shall be made pursuant to Part 7*
 21 *(commencing with Section 17500) of Division 4 of Title*
 22 *2 of the Government Code. If the statewide cost of the*
 23 *claim for reimbursement does not exceed one million*
 24 *dollars (\$1,000,000), reimbursement shall be made from*
 25 *the State Mandates Claims Fund.*

26 *Notwithstanding Section 17580 of the Government*
 27 *Code, unless otherwise specified, the provisions of this act*
 28 *shall become operative on the same date that the act*
 29 *takes effect pursuant to the California Constitution.*

