

Date of Hearing: April 21, 2021

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Lisa Calderon, Chair

AB 461 (Villapudua) – As Amended April 12, 2021

**SUBJECT:** CalWORKs: welfare-to-work: self-employment

**SUMMARY:** Requires, for the purpose of calculating the number of hours a recipient is participating in welfare-to-work (WTW) activities pursuant to California Work Opportunity and Responsibility to Kids (CalWORKs) requirements, the number of hours for self-employment activities to be based solely on the number of hours the recipient is engaged in self-employment activities, as authorized. Further specifies that no appropriation shall be made for purposes of implementing this act.

**EXISTING LAW:**

- 1) Establishes in federal law the Temporary Assistance for Needy Families (TANF) program, which provides block grants to states to develop and implement their own state WTW programs designed to provide cash assistance and other supports and services to low-income families. (42 United States Code Section [USC] 601 et seq.)
- 2) Establishes the state's TANF program, the CalWORKs program. CalWORKs provides cash assistance and other supports and services to low-income families and is administered by the counties. (Welfare and Institutions Code Section [WIC] 11200 et seq.)
- 3) Requires all individuals 16 years of age or older, unless they are otherwise exempt, to participate in WTW activities as a condition of eligibility for CalWORKs. (WIC 11320.3, 11322.6)
- 4) Requires any CalWORKs recipient who is required to participate in WTW activities to enter into a written WTW plan with the county welfare department, requires the WTW plan to include the activities and services which will move the recipient into employment, and establishes additional requirements related to the plan, as specified. (WIC 11325.21)
- 5) Establishes the number of weekly hours of WTW participation necessary to remain eligible for aid, including requirements for an unemployed parent in a two-parent assistance unit, as follows:
  - a) An average of at least 30 hours per week, if the assistance unit includes either one adult or two adults, one of which is disabled, but does not include a child under six years of age;
  - b) An average of at least 20 hours per week, if the assistance unit includes a child under six years of age and either one adult or two adults, one of which is disabled;
  - c) An average of at least 20 hours per week, if the assistance unit consists only of a pregnant person;

- d) An average of at least 35 hours per week, if the adult recipient is an unemployed parent; however, both parents in a two-parent assistance unit may contribute to the 35 hours. (WIC 11322.8)
- 6) Provides that for 24 cumulative months during a recipient's lifetime WTW activities may include:
- a) Unsubsidized employment;
  - b) Subsidized private sector employment;
  - c) Subsidized public sector employment;
  - d) Work experience, as specified;
  - e) On-the-job training;
  - f) Grant-based on-the-job training, as specified;
  - g) Supported work or transitional employment, as specified;
  - h) Workstudy;
  - i) Self-employment;
  - j) Community service;
  - k) Adult basic education, as specified;
  - l) Job skills training directly related to employment;
  - m) Vocational education and training, as specified;
  - n) Job search and job readiness assistance, as specified;
  - o) Education directly related to employment;
  - p) Satisfactory progress in secondary school or in a course of study leading to a certificate of general educational development, in the case of a recipient who has not completed secondary school or received such a certificate;
  - q) Mental health, substance abuse, and domestic violence services, as specified; or,
  - r) Other activities necessary to assist an individual in obtaining unsubsidized employment. (WIC 11322.85(a)(1) and 11322.6)
- 7) Requires a recipient, after a total of 24 months of participation in WTW activities under the 24-month time limit, to participate in one or more of the following WTW activities in accordance with federal WTW requirements:
- a) Unsubsidized employment;

- b) Subsidized private sector employment;
- c) Subsidized public sector employment;
- d) Work experience, including work associated with the refurbishing of publicly assisted housing, if sufficient private sector employment is not available;
- e) On-the-job training;
- f) Job search and job readiness assistance;
- g) Community service programs;
- h) Vocational educational training (not to exceed 12 months with respect to any individual);
- i) Job skills training directly related to employment;
- j) Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;
- k) Satisfactory attendance at a secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate; or,
- l) The provision of child care services to an individual who is participating in a community service program. (WIC 11322.85(a)(3))

**FISCAL EFFECT:** Unknown

**COMMENTS:**

*California Work Opportunity and Responsibility to Kids:* The CalWORKs program, which implements the federal TANF program, provides eligible low-income families with cash grants and supportive services aimed at helping them to secure education, training, and employment. CDSS is charged with program supervision at the state level, and counties administer the caseloads at the local level. CalWORKs is funded largely through the federal TANF block grant and state maintenance-of-effort contributions. Families participating in CalWORKs have access to a range of services that can include child care and services aimed at addressing mental health needs, substance use disorders, experiences of domestic violence, and learning disabilities, among other issues. Unless deemed exempt or otherwise not required to participate per CalWORKs rules, parents are required to develop and participate in a WTW plan. CalWORKs-approved WTW activities can include public or private sector subsidized or unsubsidized employment; on-the-job training; community service; secondary school, adult basic education and vocational education and training when the education is needed for the recipient to become employed; specific mental health, substance abuse, or domestic violence services if they are necessary to obtain or retain employment; and a number of other activities necessary to assist a recipient in obtaining unsubsidized employment.

In 2020-21, the maximum monthly grant for a family of three on CalWORKs (one parent and two children), if the family has no other income and lives in a high cost-of-living county, is

\$878. The same family living in a lower cost-of-living county would be eligible for up to \$834 per month. However, the average monthly cash grant for the family is \$583. Many families earn some income, or live in a lower cost-of-living county, and do not qualify for the maximum grant amount. More than 482,400 families are projected to receive CalWORKs benefits in Fiscal Year 2021-22.

***Welfare-to-Work:*** Unless deemed exempt or otherwise not required to participate per CalWORKs rules, parents are required to develop and participate in a WTW plan. CalWORKs-approved WTW activities can include public or private sector subsidized or unsubsidized employment; on-the-job training; community service; secondary school, adult basic education and vocational education and training when the education is needed for the recipient to become employed; specific mental health, substance abuse, or domestic violence services if they are necessary to obtain or retain employment; and a number of other activities necessary to assist a recipient in obtaining unsubsidized employment.

Single parent adults with a child under the age of 6, unless exempt, are required to participate for 20 hours per week in WTW activities. Non-exempt single parent adults whose children are all 6 years of age or older must participate for at least 30 hours per week in WTW activities. Families with two parents that do not receive an exemption must participate 35 hours per week.

The federal TANF program provides funding to states for up to 60 months of cash aid per recipient. Prior to 2011, CalWORKs recipients could receive cash aid for up to a 60-month time period, which aligned with federal time limit rules. During the recessionary budget cuts, a 48-month time clock was implemented for CalWORKs recipients. SB 1041 (Committee on Budget and Fiscal Review), Chapter 47, Statutes of 2012, established a 24-month time clock in which unless exempted per CalWORKs rules, for 24 of those 48 months, WTW participation requirements can include a broad range of activities, that includes self-employment, among approved other activities. Once this 24-month time clock “runs out,” CalWORKs WTW participants must meet the more stringent federal TANF requirements in order to maintain their eligibility for aid, which does not include self-employment. However, AB 79 (Committee on Budget), Chapter 11, Statutes of 2020, effective May 1, 2022, restored the 60-month lifetime limit on receipt of benefits for qualified individuals and removed the 24-month limit on the broad range of WTW activities.

***Self-employment:*** According to the CDSS Eligibility and Assistance Standards Manual, employment is defined as “work that is compensated at least at the applicable state or federal minimum wage. If neither wage rate applies, the work must be compensated in an amount equivalent to the lesser of the two.” Self-employment is defined as “employment by means of earning a living by working as a sole proprietor or other business entity and not as an employee of another. Self-employment must include compensation as defined under ‘employment.’” Therefore, according to CDSS’s regulations, a person claiming self-employment, must be compensated at least state or federal minimum wage for their work as a sole proprietor or other business entity. The current federal minimum wage is \$7.25 per hour. The current state minimum wage for California is \$13.00 per hour for employers with 25 or fewer employees.

***Federal work requirements and the work participation rate:*** States receiving federal TANF dollars (California receives an annual TANF block grant of \$3.7 billion) are required to meet a performance measure called the “work participation rate” (WPR), or they risk losing a portion of their TANF funding.

Per the WPR, states are required to engage a certain portion of families receiving TANF in federally countable work activities for a minimum number of average weekly hours (at least 30 hours for single-parent families when all children are ages 6 or older; at least 20 hours for single-parent families with at least one child under the age of 6; and at least 35 combined hours for two-parent families). Fifty percent of all families, and 90% of two-parent families, must be participating in countable federal work activities (although states can get a caseload reduction credit that reduces the overall target percentage to be reached).

***Need for this bill:*** In order for a CalWORKs recipient to fulfill their WTW requirements with self-employed work, the recipient would need to prove that they were compensated at least the state or federal minimum wage—whichever is applicable. At \$13 per hour for smaller businesses, the current state minimum wage for California is \$5.75 per hour higher than the federal minimum wage. There are several instances in which a self-employed person, who is fulfilling the hourly requirement for WTW, may not be compensated the state minimum wage. For instance, a recent study by the Economic Policy Institute that investigated wages for independent contractor drivers states that in nine of 20 major U.S. markets—including Los Angeles, Orange County, and San Diego—the average wages for the drivers are below the mandated minimum wage. In these instances, the hours that the independent contractor drivers worked would not fulfill WTW requirements. This bill would specify that when calculating the number of hours a CalWORKs recipient is participating in self-employment for the purposes of fulfilling WTW requirements, that only the number of hours they were engaged in self-employment are considered, regardless of the compensation they received.

According to the author, “When employment cannot be secured or when a self-employment is preferred as a means for exiting poverty, self-employment alternative to traditional wage jobs should be accepted as “acceptable employment,” in the CalWORKs welfare-to-work program.

“CalWORKs beneficiaries working as childcare providers as self-employment do not receive minimum wage from the State of California. Under the CalWORKs Stage 1 ‘regional market rates’ California pays less than minimum wage per child. If the CalWORKs parent does not get minimum wage for the required 20/30/35 hours, then the parent is asked to stop their self-employment and do job-search and community service.

“[This bill] will allow CalWORKs beneficiaries to use self-employment as an option of a welfare-to-work activity, even if it does not yield minimum wage at the beginning during the first 24-month of receiving CalWORKs benefits by treating it as a non-core activity as long as the 24-month is the law.”

#### **RELATED AND PRIOR LEGISLATION:**

AB 79 (Committee on Budget), Chapter 11, Statutes of 2020, among other things, authorized changing to a single 60-month CalWORKs time limit and eliminated the 24-month limitation on certain WTW activities, effective May 1, 2022, or when CDSS notifies the Legislature that all necessary automation changes are complete.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

Coalition of California Welfare Rights Organizations (Co-Sponsor)

Western Center on Law & Poverty (Co-Sponsor)

**Opposition**

None on file

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