

Date of Hearing: March 26, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Eloise Gómez Reyes, Chair

AB 944 (Quirk) – As Introduced February 20, 2019

SUBJECT: CalWORKs: sponsored noncitizen: indigence exception

SUMMARY: Requires counties to renew the 12-month indigence exception period for certain sponsored CalWORKs applicants and recipients for additional 12-month periods and clarifies that sponsor-deeming is subject to exceptions allowed by federal law. Specifically, **this bill:**

- 1) Requires a county, to the extent permitted by federal law and other instruction, to renew for additional 12-month intervals the 12-month indigent immigrant exception period for sponsored CalWORKs applicants and recipients who are deemed to meet the indigence exception, as specified, and further requires the California Department of Social Services (CDSS) to beginning implementing this requirement between April 1 and July 1 of 2020.
- 2) Clarifies that sponsor-deeming is subject to exceptions allowed by federal law, as specified.
- 3) Requires CDSS to adopt emergency regulations implementing the provisions of this bill by January 1, 2021, as specified, and authorizes CDSS to implement and administer the provisions of this bill through all-county letters or similar instructions until such regulations are adopted.
- 4) States the no continuous appropriation, as specified, shall be made for purposes of the provisions of this bill.
- 5) Makes technical changes.

EXISTING LAW:

- 1) Establishes under federal law the Temporary Assistance for Needy Families (TANF) program to provide aid and welfare-to-work services to eligible families and, in California, provides that TANF funds for welfare-to-work services are administered through the CalWORKs program. (42 U.S.C. 601 *et seq.*, Welfare and Institutions Code [WIC] Section 11200 *et seq.*)
- 2) Establishes income, asset, and real property limits used to determine eligibility for the CalWORKs program, including net income below the Maximum Aid Payment (MAP), based on family size and county of residence. (WIC 11150 to 11160, 11450 *et seq.*)
- 3) Establishes a 48-month lifetime limit on CalWORKs benefits for eligible adults, including a period beyond the “24 month clock” during which a recipient must meet federal work requirements in order to retain eligibility. (WIC 11454, 11322.85)
- 4) Requires all individuals 16 years of age or older, unless they are otherwise exempt, to participate in welfare-to-work activities as a condition of eligibility for CalWORKs. (WIC 11320.3, 11322.6)

- 5) Establishes the number of weekly hours of welfare-to-work participation necessary to remain eligible for aid, as specified. (WIC 11322.8)
- 6) Defines disability-based unearned income, within the CalWORKs program, as state disability insurance benefits, private disability insurance benefits, temporary workers' compensation benefits, social security disability benefits, and any veteran's disability compensation. (WIC 11451.5)
- 7) Defines earned income as gross income received as wages, salary, employer-provided sick leave benefits, commissions, or profits from activities such as a business enterprise or farming in which the recipient is engaged as a self-employed individual or as an employee. (WIC 11451.5)
- 8) Stipulates in federal law what income and resources of a sponsor of a qualified immigrant, or that sponsors' spouse, should be used in determining the qualified immigrant's eligibility and amount of benefits for any federal means-tested public benefit program, and allows for an "indigence exception" by stipulating that, if it is determined that the sponsored immigrant would be unable to obtain food and shelter in the absence of assistance, the amount of income and resources of the sponsor or sponsor's spouse which shall be attributed to the sponsored immigrant shall not exceed the amount actually provided for 12 months from the date of this determination, as specified. (8 U.S.C. Section 1631)
- 9) Sets forth federal Supplemental Nutrition Assistance Program (SNAP) regulations related to the determination of indigence of sponsored immigrants, including defining "is unable to obtain food and shelter" as the sum of the eligible sponsored immigrant's household's own income plus the cash contributions of and value of in-kind contributions from the sponsor and others not exceeding 130% of the federal poverty guideline for the household's size. Further, states that each indigence determination is renewable for additional 12-month periods. (Code of Federal Regulations Section 273.4 (c)(3)(iv))

FISCAL EFFECT: Unknown

COMMENTS:

CalWORKs: CalWORKs is the state's TANF program, providing eligible low-income families with cash grants and supportive services aimed at helping them to secure education, training, and employment. CalWORKs is administered at the county level; it 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 welfare-to-work plan. CalWORKs-approved welfare-to-work 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.

A number of changes to the CalWORKs program were adopted with the passage of SB 1041 (Senate Committee on Budget and Fiscal Review), Chapter 47, Statutes of 2012. These changes included the establishment of the 24-month time clock. Unless exempted per CalWORKs rules, an adult recipient is expected to participate in welfare-to-work activities during the up to 48 months for which they may receive assistance. For 24 of those 48 months, welfare-to-work participation requirements can include a broad range of activities, such as employment, training, education, and mental health, domestic violence, and substance abuse services. Once this 24-month time clock “runs out,” CalWORKs welfare-to-work participants must meet the more stringent federal TANF requirements in order to maintain their eligibility for aid. If a CalWORKs recipient does not meet the requirements of their welfare-to-work plan and does not have a permissible exemption or exception to those requirements, they are subject to sanction; sanction results in an individual’s portion of the family’s grant being subtracted from the total grant amount provided to the family to meet basic needs.

The current maximum CalWORKs grant for a family of three living in a high-cost county, if the family has no other income, is \$714 per month. On April 1st of this year, maximum grants will increase by 10% pursuant to changes adopted in the 2018 Human Services Trailer Bill, AB 1811 (Assembly Committee on Budget), Chapter 35, Statutes of 2018. This 10% increase will raise the maximum CalWORKs grant for a family of three living in a high-cost county to \$785 per month. However, many families earn some income and do not qualify for the maximum grant amount. For Fiscal Year (FY) 2018-19, the average monthly CalWORKs cash grant is estimated to be \$568 per household. In FY 2017-18, the average monthly CalWORKs caseload was 423,121 households.

“Sponsor deeming” and eligibility for public benefits: According to the U.S. Citizenship and Immigration Services, most family-based immigrants and some employment-based immigrants obtain sponsors in the U.S. to show that they have adequate means of financial support. To do this, a sponsor must sign an affidavit of support indicating that they accept financial responsibility for the noncitizen who is coming to the United States to live permanently. In certain instances, if a qualified immigrant has a sponsor and applies for certain public benefits (TANF [CalWORKs in California], Supplemental Nutrition Assistance Program [SNAP, referred to as CalFresh in California], and Supplemental Security Income/State Supplemental Payment [SSI/SSP]), “sponsor deeming” occurs. Sponsor deeming means that the income of the sponsor and the sponsor’s spouse may be counted as if they were the sponsored immigrant’s for purposes of determining eligibility and benefit amounts for certain public services. However, per federal law, an “indigence exception” may be allowed when it is determined that the sponsored immigrant would be unable to obtain food and shelter in the absence of assistance. (This threshold is defined differently according to various benefit programs. For example, in federal and state SNAP/CalFresh regulations, it is interpreted to mean that the noncitizen’s income and resources, including cash and resources from the sponsor and others, do not exceed 130% of the federal guideline for the household size. However, SSI/SSP applies a different set of calculations for individuals who are not living with their sponsor, and does not grant the indigence exception if a noncitizen is living with their sponsor, claiming that food and shelter needs are met under those circumstances. CalWORKs does not set a specific income/resource threshold related to the indigence exception.) If an indigence exception is allowed for the sponsored noncitizen, the amount of income and resources of the sponsor or sponsor’s spouse attributed to the sponsored immigrant is only the amount of cash or in-kind support and maintenance actually provided by the sponsor.

Governor’s veto message: AB 2111 (Quirk) of 2018 proposed language nearly identical to this bill and was vetoed. The Governor’s veto message stated that: “I am returning the following Assembly Bills without my signature: AB 1921; AB 1992; AB 2111. Each of these bills would make changes to the CalWORKs program that result in significant, ongoing funding commitments. As such, I believe they should be considered as part of the budget process when all funding commitments are considered and prioritized.”

The author contends that the provisions of this bill constitute a policy change in the CalWORKs program that carries the potential of serving one of the state’s most vulnerable populations and, as such, should be vetted by the Legislature.

Need for this bill: The authority to renew determination of indigence exception for additional 12-month periods is applied differently across two key supports in California: CalFresh and CalWORKs. In the CalFresh program, CDSS Manual of Policies and Procedures (MPP) Section 63-503.492(d)(1)(B) states that, “This [indigence] exception applies for a period beginning on the date of such indigency determination and ending 12 months from that date. The 12-month exception period is renewable for additional 12-month periods.” CalWORKs rules, however, do not allow for such renewal. CDSS MPP Section 43-119.221(b) states that, “This [indigence] exception applies for a period beginning on the date of such determination and ending 12 months from that date. This exception is not renewable or transferable and it is granted only once in a lifetime.” This bill seeks to bring CalWORKs rules regarding the indigence exception in line with those of CalFresh.

The author states that, “Most legal immigrants in the U.S. are eligible for CalWORKs and CalFresh benefits, provided they meet financial and categorical requirements. In California, if the county determines a sponsored noncitizen would go hungry and homeless without aid, the sponsored noncitizen is determined to be indigent. A sponsored non-citizen can apply for CalFresh benefits every 12 months. However, that same eligible individual can only apply for CalWORKS benefits for a total of 12 months. [This bill] will require counties to renew CalWORKS benefits to an eligible sponsored indigent non-citizen for an additional 12 months, similar to how they are extended under CalFresh and federal law permits.”

PRIOR LEGISLATION:

AB 2111 (Quirk) of 2018 was nearly identical to this bill. AB 2111 was vetoed by the Governor.

REGISTERED SUPPORT / OPPOSITION:

Support

County of Alameda (Sponsor)
Western Center on Law & Poverty, Inc. (Sponsor)
California Catholic Conference
California Immigrant Policy Center
County of Santa Clara
County Welfare Directors Association of California
Food for People, The Food Bank for Humboldt County
Hunger Action Los Angeles, Inc.
Public Interest Law Project

Opposition

None on file

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