

An act to amend, repeal, and add Section 11004 of the Welfare and Institutions Code, relating to CalWORKs.

SECURED  
COPY



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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11004 of the Welfare and Institutions Code is amended to read:

11004. The provisions of this code relative to public social services for which state grants-in-aid are made to the counties shall be administered fairly to the end that all persons who are eligible and apply for those public social services shall receive the assistance to which they are entitled promptly, with due consideration for the needs of applicants and the safeguarding of public funds.

(a) Any applicant for, or recipient or payee of, those public social services shall be informed as to the provisions of eligibility and the responsibility to report facts material to a correct determination of eligibility and grant.

(b) Any applicant for, or recipient or payee of, those public social services shall be responsible for reporting accurately and completely within the applicant's, recipient's, or payee's competence those facts required pursuant to subdivision (a) and to promptly report any changes in those facts.

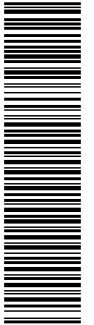
(c) Current and future grants payable to an assistance unit may be reduced because of prior overpayments. In cases in which the overpayment was caused by agency error, grant payments shall be reduced by 5 percent of the maximum aid payment of the assistance unit. Grant payments to be adjusted because of prior overpayments because of any other reason shall be reduced by 10 percent of the maximum aid payments for the assistance unit. A recipient may have an overpayment adjustment in excess of the amounts allowable under this section if the recipient requests it.

(d) A determination of ineligibility shall not be made retrospectively so as to result in an assessment of an overpayment when there is a failure on the part of an applicant or recipient to perform an act constituting a condition of eligibility, if the failure is caused by an error made by a state agency or a county welfare department, and if the amount of the grant received by the applicant or recipient would not have been different had the act been performed.

(e) Prior to effectuating any reduction of current grants to recover past overpayments, the recipient shall be advised of the proposed reduction and of the recipient's entitlement to a hearing on the propriety of the reduction.

(f) If the department determines after a hearing that an overpayment has occurred, the county providing the public social services shall seek to recover the overpayment in accordance with subdivision (c), including any amount paid while the hearing process was pending. That adjustment shall be permitted concurrently with any suit for restitution, and recovery of overpayment by adjustment shall reduce by the amount of such recovery the extent of liability for restitution.

(g) (1) If the individual responsible for an overpayment is no longer receiving aid under Chapter 2 (commencing with Section 11200), recovery of overpayments received under that chapter shall not be attempted when the outstanding overpayments are less than two hundred fifty dollars (\$250). When an overpayment collection is attempted, reasonable cost-effective efforts at collection shall be implemented. Reasonable efforts shall include notification of the amount of the overpayment and that repayment is required. The department shall define reasonable cost-effective collection methods. In cases involving fraud, every effort shall be made to collect the overpayments regardless of the amount.



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(2) The department may establish a threshold higher than two hundred fifty dollars (\$250) if it determines that a higher threshold is more cost effective, but the department shall not set a lower threshold than that amount.

(3) Notwithstanding subdivision (c), a county shall discharge an overpayment if the county determines that the overpayment has been caused by a major systemic error or negligence, as those terms are defined by the department.

(h) If the individual responsible for the overpayment to the assistance unit becomes a member of another assistance unit, recovery of overpayments shall be made against the individual or the individual's present assistance unit, or both.

(i) (1) If an overpayment has been made to an assistance unit that is no longer receiving public social services, recovery shall be made by appropriate action under state law.

(2) This paragraph shall be operative when the Statewide Automated Welfare System (SAWS) can automate its provisions. Except in cases involving overpayments due to fraud or an investigation into suspected fraud, if the individual responsible for the overpayment has not received aid under Chapter 2 (commencing with Section 11200) for 36 consecutive months or longer, the county shall deem an overpayment uncollectible and discharge, in accordance with existing discharge procedures, an overpayment received under that chapter.

(j) A civil or criminal action shall not be commenced against any person based on alleged unlawful application for or receipt of public social services if the case record, or any consumer credit report used in the civil or criminal case of that person for the purpose of determining that the overpayment, has not been made available to that person or has been destroyed after the expiration of the three-year retention period pursuant to Section 10851.

(k) (1) When an underpayment or denial of public social services occurs and, as a result, the applicant or recipient does not receive the amount to which the applicant or recipient is entitled, the county shall provide public social services equal to the full amount of the underpayment unless prohibited by federal law. In cases that have both an underpayment and an overpayment, the underpayment shall be offset against the overpayment prior to correcting any remaining underpayment.

(2) Any corrective payments made pursuant to this subdivision shall be disregarded in determining the income of the family and shall be disregarded in determining the resources of the family in the month the corrective payment is made and in the following month.

(l) This subdivision is applicable only to applicants, recipients, and payees under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9. Any suits to recover overpayments described in subdivision (f) shall be brought on behalf of the county by the county counsel unless the board of supervisors delegates that duty to the district attorney by ordinance or resolution.

~~(m) This section shall become operative on July 1, 2019, except as otherwise specified in paragraph (2) of subdivision (i).~~

(m) This section shall become inoperative on July 1, 2022, or on the date the department notifies the Legislature that the Statewide Automated Welfare System can perform the necessary automation to implement this section, as added by the act that added this subdivision, whichever date is later, and is repealed on January 1 of the following year.



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SEC. 2. Section 11004 is added to the Welfare and Institutions Code, to read:  
11004. The provisions of this code relative to public social services for which state grants-in-aid are made to the counties shall be administered fairly to the end that all persons who are eligible and apply for those public social services shall receive the assistance to which they are entitled promptly, with due consideration for the needs of applicants and the safeguarding of public funds.

(a) Any applicant for, or recipient or payee of, those public social services shall be informed as to the provisions of eligibility and the responsibility to report facts material to a correct determination of eligibility and grant.

(b) Any applicant for, or recipient or payee of, those public social services shall be responsible for reporting accurately and completely within the applicant's, recipient's, or payee's competence those facts required pursuant to subdivision (a) and to promptly report any changes in those facts.

(c) Current and future grants payable to an assistance unit may be reduced because of prior overpayments. In cases in which the overpayment was caused by agency error, grant payments shall be reduced by 5 percent of the maximum aid payment of the assistance unit. Grant payments to be adjusted because of prior overpayments because of any other reason shall be reduced by 10 percent of the maximum aid payments for the assistance unit. A recipient may have an overpayment adjustment in excess of the amounts allowable under this section if the recipient requests it.

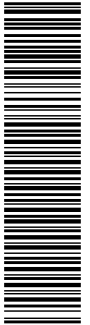
(d) A determination of ineligibility shall not be made retrospectively so as to result in an assessment of an overpayment when there is a failure on the part of an applicant or recipient to perform an act constituting a condition of eligibility, if the failure is caused by an error made by a state agency or a county welfare department, and if the amount of the grant received by the applicant or recipient would not have been different had the act been performed.

(e) Prior to effectuating any reduction of current grants to recover past overpayments, the recipient shall be advised of the proposed reduction and of the recipient's entitlement to a hearing on the propriety of the reduction.

(f) If the department determines after a hearing that an overpayment has occurred, the county providing the public social services shall seek to recover the overpayment in accordance with subdivision (c), including any amount paid while the hearing process was pending. That adjustment shall be permitted concurrently with any suit for restitution, and recovery of overpayment by adjustment shall reduce by the amount of such recovery the extent of liability for restitution.

(g) (1) (A) If the individual responsible for an overpayment is no longer receiving aid under Chapter 2 (commencing with Section 11200), recovery of overpayments received under that chapter shall not be attempted when the outstanding overpayments are less than two hundred fifty dollars (\$250). When an overpayment collection is attempted, reasonable cost-effective efforts at collection shall be implemented. Reasonable efforts shall include notification of the amount of the overpayment and that repayment is required. The department shall define reasonable cost-effective collection methods. In cases involving fraud, every effort shall be made to collect the overpayments regardless of the amount.

(B) The department may establish a threshold higher than two hundred fifty dollars (\$250) if it determines that a higher threshold is more cost effective, but the department shall not set a lower threshold than that amount.



(2) Notwithstanding subdivision (c), a county shall discharge an overpayment if the county determines that the overpayment has been caused by a major systemic error or negligence, as those terms are defined by the department.

(3) (A) Except in cases involving overpayments due to fraud, a county shall only establish an overpayment if the overpayment occurred within 24 months prior to the date that the county discovered the overpayment.

(B) A county shall not collect any portion of a nonfraudulent overpayment that occurred more than 24 months prior to the date the county discovered an overpayment.

(h) If the individual responsible for the overpayment to the assistance unit becomes a member of another assistance unit, recovery of overpayments shall be made against the individual or the individual's present assistance unit, or both.

(i) (1) If an overpayment has been made to an assistance unit that is no longer receiving public social services, recovery shall be made by appropriate action under state law.

(2) This paragraph shall be operative when the Statewide Automated Welfare System (SAWS) can automate its provisions. Except in cases involving overpayments due to fraud or an investigation into suspected fraud, if the individual responsible for the overpayment has not received aid under Chapter 2 (commencing with Section 11200) for 36 consecutive months or longer, the county shall deem an overpayment uncollectible and discharge, in accordance with existing discharge procedures, an overpayment received under that chapter.

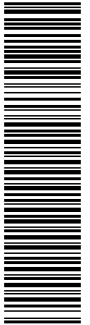
(j) A civil or criminal action shall not be commenced against any person based on alleged unlawful application for or receipt of public social services if the case record, or any consumer credit report used in the civil or criminal case of that person for the purpose of determining that the overpayment, has not been made available to that person or has been destroyed after the expiration of the three-year retention period pursuant to Section 10851.

(k) (1) When an underpayment or denial of public social services occurs and, as a result, the applicant or recipient does not receive the amount to which the applicant or recipient is entitled, the county shall provide public social services equal to the full amount of the underpayment unless prohibited by federal law. In cases that have both an underpayment and an overpayment, the underpayment shall be offset against the overpayment prior to correcting any remaining underpayment.

(2) Any corrective payments made pursuant to this subdivision shall be disregarded in determining the income of the family and shall be disregarded in determining the resources of the family in the month the corrective payment is made and in the following month.

(l) This subdivision is applicable only to applicants, recipients, and payees under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9. Any suits to recover overpayments described in subdivision (f) shall be brought on behalf of the county by the county counsel unless the board of supervisors delegates that duty to the district attorney by ordinance or resolution.

(m) This section shall become operative on July 1, 2022, or on the date the department notifies the Legislature that the Statewide Automated Welfare System can perform the necessary automation to implement this section, whichever date is later.



## LEGISLATIVE COUNSEL'S DIGEST

Bill No.  
as introduced, \_\_\_\_\_.  
General Subject: CalWORKs: overpayments: 24-month limit.

Existing law provides for the California Work Opportunity and Responsibility to Kids (CalWORKs) program, under which each county provides cash assistance and other benefits to qualified low-income families and individuals. Existing law authorizes current and future grants payable to an assistance unit to be reduced due to prior overpayments. Existing law prohibits a county from attempting to recover payments when the outstanding overpayments are less than \$250 if the individual is no longer receiving aid under the CalWORKs program, and requires a county to discharge an overpayment if the county determines that the overpayment has been caused by a major systemic error or negligence.

This bill, commencing July 1, 2022, or the date the department notifies the Legislature that the Statewide Automated Welfare System can perform the necessary automation to implement the bill, whichever date is later, would authorize a county to establish an overpayment only if the overpayment occurred within 24 months prior to the date that the county discovered the overpayment, except in cases involving overpayment due to fraud. The bill would prohibit a county from collecting any portion of a nonfraudulent overpayment that occurred more than 24 months prior to the date the county discovered the overpayment.

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

