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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 9. PUBLIC SOCIAL SERVICES [10000 - 18999.98] (Division 9 added by Stats. 1965, Ch. 1784.)

PART 3. AID AND MEDICAL ASSISTANCE [11000 - 15771] (Part 3 added by Stats. 1965, Ch. 1784.)

CHAPTER 2. California Work Opportunity and Responsibility to Kids Act [11200 - 11526.5] (Heading of Chapter 2 amended by Stats. 1997, Ch. 270, Sec. 49.)

ARTICLE 2.2. Restricted Payments [11271 - 11274] (Article 2.2 added by Stats. 1991, Ch. 97, Sec. 3.5.)

11271. For purposes of this article, the following definitions shall apply:

(a) "Restricted payment" means payment of homeless assistance benefits in the form of either of the following:

- (1) A vendor payment to the provider of shelter or utilities or both.
- (2) A two-party payment for rent or utilities, or both.

(b) "Recipient" means a recipient of aid pursuant to subdivision (a) of Section 11450.

(c) "Two-party payment" means a check which is drawn jointly to the order of the recipient and the service provider and is negotiable only upon the endorsement of both parties.

(d) "Vendor payment" means a voucher, or check drawn to the order of the service provider.

(e) "Homeless assistance benefits" means benefits paid pursuant to paragraph (2) of subdivision (f) of Section 11450 and Section 11450.4.

(Added by Stats. 1991, Ch. 97, Sec. 3.5. Effective June 30, 1991. Operative August 1, 1991, by Sec. 30 of Ch. 97.)

11271.5. (a) Restricted payments for homeless assistance benefits shall be provided by a county welfare department to a recipient, if at least one of the following criteria is met:

- (1) The recipient has mismanaged AFDC funds, as defined in Section 11273 and in accordance with federal law.
- (2) The recipient has voluntarily requested restricted payments. The request shall be in writing from the recipient and shall be recorded and retained in the case file by the county welfare department.

(b) At the option of the county welfare department, restricted payments made pursuant to subdivision (a) may be made for utilities as well as shelter.

(Added by Stats. 1991, Ch. 97, Sec. 3.5. Effective June 30, 1991. Operative August 1, 1991, by Sec. 30 of Ch. 97.)

11272. When restricted payments are provided to a recipient, the county welfare department shall do all of the following:

(a) Issue the vendor or two-party payment by one of the following methods, at the discretion of the county:

- (1) Mail or delivery to the recipient for delivery to the service provider.
- (2) Mail or delivery directly to the service provider.

(b) Do the following in order to develop greater ability on the part of the recipient to manage funds in such a manner as to protect the welfare of the family:

- (1) Provide each family with informational materials designed to improve the recipient's ability to manage funds.
- (2) Refer the family to appropriate services where these exist.

(c) Provide for timely and correct vendor payments and two-party payments.

(Added by Stats. 1991, Ch. 97, Sec. 3.5. Effective June 30, 1991. Operative August 1, 1991, by Sec. 30 of Ch. 97.)

11273. (a) Homeless assistance provided pursuant to paragraph (2) of subdivision (f) of Section 11450 shall be subject to restricted payments consistent with federal regulations when the county welfare department has made a determination that mismanagement exists. Instances where mismanagement exists include, but are not limited to, the following situations.

(1) Nonpayment of rent unless nonpayment is due to:

(i) A rent increase which results in the recipient's share of the rent being over 80 percent of the maximum aid payable pursuant to Section 11450.

(ii) Domestic violence by a spouse, partner, or roommate.

(iii) Reasonable exercise of a tenant's right to withhold rent for cause.

(2) The homeless assistance payment was not used for shelter.

(3) The recipient or applicant fails to provide verification that homeless assistance payments were used for shelter.

(b) To the extent allowed by federal law, the department is authorized to issue regulations defining additional situations when mismanagement may exist.

(Added by Stats. 1991, Ch. 97, Sec. 3.5. Effective June 30, 1991. Operative August 1, 1991, by Sec. 30 of Ch. 97.)

11274. (a) Notwithstanding Section 11271, for purposes of this section, the following definitions shall apply:

(1) "AFDC" benefits means benefits paid pursuant to subdivision (a) of Section 11450.

(2) "Recipient" means a recipient of aid pursuant to subdivision (a) of Section 11450.

(3) "Restricted payment" means payment of AFDC benefits in the form of any of the following:

(A) A vendor payment to the provider of shelter or utilities, or both.

(B) A two-party payment for rent or utilities, or both.

(4) "Two-party payment" means a check that is drawn jointly to the order of the recipient and the service provider and is negotiable only upon the endorsement of both parties.

(5) "Vendor payment" means a voucher or check drawn to the order of the service provider.

(b) A county may, at its option, provide restricted payments for AFDC on behalf of a recipient to the provider of shelter or utilities, or both, if the county determines that the recipient has demonstrated such an inability to manage funds that payments to the relative have not been or are not currently used in the best interest of the child. A recipient shall be presumed to have mismanaged funds when he or she has previously failed to pay rent within the past 12 months, unless the failure was due to a significant rent increase, a reasonable exercise of a tenant's right to withhold rent for repair and deduct, or domestic violence by a spouse, partner, or roommate.

(c) If the county, at its option, elects to establish a program to provide restricted payments to the provider of shelter or utilities, or both, the county shall do all of the following:

(1) Provide restricted payments on behalf of recipients who request them, in addition to making involuntary restricted payments to those persons to whom subdivision (b) applies.

(2) Continue voluntary restricted payments for not less than three months, unless the county determines that exceptional circumstances exist that require that the restricted payments be ended earlier.

(3) If a recipient notifies the county at least two weeks prior to the issuance of the next regular rental payment that he or she wishes to exercise his or her right to withhold rent due to untenable conditions, issue a two-party check to the recipient requiring endorsement of both the landlord and the recipient.

(4) If a recipient notifies the county at least two weeks prior to the issuance of the next regular rental payment that he or she wishes to exercise his or her right to repair and deduct the money pursuant to Section 1942 of the Civil Code, and the amount the tenant wishes to deduct, deduct that amount from the restricted payment to the landlord and add the amount to the recipient's grant check.

(5) If a recipient notifies the county at least two weeks prior to the issuance of the next regular rental payment that he or she intends to move, provide the next regular rental payment to the new landlord. If the recipient indicates his or her intent to move but does not provide the name and address of the new landlord, the county shall terminate restricted payments for rent until the name and address of a new landlord is provided.

(d) (1) In no case is a landlord entitled to payment under this section for days that the recipient was not residing at the landlord's property.

(2) If a landlord does receive a restricted payment pursuant to this section for days that the recipient did not reside at the landlord's property, the landlord shall remit to the county welfare department an amount that represents the overpaid rent.

(3) The county may not assess an overpayment against a recipient for payments made to a landlord for periods in which the recipient was not residing at that location.

(4) A landlord may not base an eviction or late fee upon failure to receive rent due to county administrative error.

(5) If the notice from the recipient is given less than two weeks prior to a move, the county shall pay the new landlord as soon as practicable.

(6) Nothing in this subdivision shall be construed to prevent a landlord accepting restricted payments from pursuing existing remedies against a tenant or former tenant for money that may be owed by the tenant to the landlord.

(e) Restricted payments shall expire after a period of 12 months, unless the recipient requests a continuation of that period or the county finds that the recipient continues to experience money management problems. The county shall provide notification to the recipient within 30 days of the expiration of the restricted payment.

(f) When restricted payments are provided on behalf of a recipient, the county welfare department shall do all of the following:

(1) Either of the following:

(A) Mail or deliver the voucher or check to the recipient for delivery to the service provider.

(B) Mail or deliver the voucher or check directly to the service provider.

(2) Provide timely notification to the recipient that the restricted payment has been made.

(3) Refer the family to appropriate money management services, where those services exist.

(g) If the restricted payment involves a third party, the third-party payee shall be an individual or organization interested in, or concerned with, the recipient's welfare, and shall not include any employees of the county welfare department or parties who are vendors who stand to gain financially from doing commercial business with the recipient. To the extent possible, the selection of a third-party payee shall be made by the recipient, or with his or her participation and consent.

(h) Any landlord who accepts a restricted payment of AFDC benefits shall not require his or her tenant to pay the last month's rent in advance or retain any portion of the tenant's security deposit as rent owing.

(i) (1) Nothing in this section shall be construed to prevent a landlord who accepts a restricted payment of rent pursuant to this section from charging a cleaning or damage deposit, or a deposit for both cleaning and damage, in an amount that does not exceed an amount equal to rent for one month.

(2) Nothing in this section shall be construed to limit the rights of tenants provided under Section 1942 of the Civil Code.

(j) (1) The department shall seek all appropriate federal waivers for the implementation of this section.

(2) The department shall implement this section commencing on the date the Director of Social Services executes a declaration, that shall be retained by the director, stating that the administrative actions required by paragraph (1) as a condition of implementation of subdivisions (a) to (i), inclusive, have been taken by the director and the waivers have been obtained from the United States Secretary of Health and Human Services.

(Added by Stats. 1995, Ch. 838, Sec. 1. Effective January 1, 1996.)