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**AB-121 Social services.** (2019-2020)

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Date Published: 10/02/2019 09:00 PM

**Assembly Bill No. 121**

**CHAPTER 414**

An act to amend Sections 11004, 11323.2, and 11323.4 of, to amend and repeal Section 11323.3 of, and to add Section 11323.1 to, the Welfare and Institutions Code, to repeal Section 46 of Chapter 27 of the Statutes of 2019, and to amend the Budget Act of 2019 (Chapters 23 and 55 of the Statutes of 2019) by adding Item 5180-490 of Section 2.00 of that act, relating to social services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[ Approved by Governor October 02, 2019. Filed with Secretary of State October 02, 2019. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 121, Committee on Budget. Social services.

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 generally provides for the recovery of an overpayment of benefits. Existing law requires a county, beginning when the Statewide Automated Welfare System (SAWS) has the capability to produce a specified report identifying overpayments, to deem an overpayment uncollectible and expunge that overpayment if the individual responsible for the overpayment has not received aid under CalWORKs for 36 consecutive months or longer, except as specified.

This bill would instead impose that requirement relating to overpayments beginning when SAWS can automate those provisions.

Existing law generally requires a recipient of CalWORKs benefits to participate in welfare-to-work activities as a condition of eligibility for aid. Existing law requires that necessary supportive services be available to participants in welfare-to-work activities, including childcare, which is provided pursuant to the Child Care and Development Services Act. The act establishes 3 stages of childcare services. Existing law requires county welfare departments to manage the first stage of childcare, and authorizes first-stage childcare for 1 year, or until the participant is transferred to the 2nd stage of childcare.

This bill would instead provide that, upon establishing initial or ongoing eligibility for first-stage childcare services, a family is considered to meet all eligibility and need requirements and be authorized for not less than 12 months, or until the participant is transferred to the 2nd stage of childcare.

Existing law requires an applicant for, or a recipient of, CalWORKs benefits to be provided written notice, both at the time of application and when they sign an original or amended welfare-to-work plan, informing them of, among other things, the availability of paid childcare to allow them to be employed or participate in welfare-to-work activities and of assistance in finding and choosing a childcare provider. Existing law, commencing January 1, 2021, or the date that automation changes occur in the Statewide Automated Welfare System, whichever date is later, requires the notice to additionally inform applicants and recipients

of the name and contact information for the local childcare resource and referral program, and requires the notice to be provided at additional times, including at the time of orientation and when the recipient is assigned to a program activity.

This bill would instead make the requirement that the notice inform applicants and recipients of the name and contact information for the local childcare resource and referral program to be effective immediately, and would, at the above-described later date, also require the notice to be provided when the recipient reports new or increased participation in a program activity. The bill would require the State Department of Social Services to work with counties and other stakeholders to modify applicable CalWORKs notices and forms about childcare to include that new information required to be in the notice and to make the modified notices and forms available at times in addition to the time of application and when an original or amended welfare-to-work plan is signed, such as at the time of orientation, when and where possible and appropriate. The bill would authorize the department to implement these provisions by all-county letter or similar directive until regulations are adopted. By imposing additional duties on county welfare departments, this bill would impose a state-mandated local program.

The Budget Act of 2017 appropriated \$43,461,000 to the State Department of Social Services for the Housing and Disability Advocacy Program to increase participation among homeless persons with disabilities who may be eligible for disability benefits programs, as specified, and made those funds available for encumbrance or expenditure until June 30, 2020.

This bill would reappropriate the balance of that appropriation to the State Department of Social Services for the same purpose, and would make those funds available for encumbrance or expenditure until June 30, 2021.

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.

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 the statutory provisions noted above.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: yes

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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, as amended by Section 32 of Chapter 27 of the Statutes of 2019, 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, or 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.

(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).

**SEC. 2.** Section 11323.1 is added to the Welfare and Institutions Code, to read:

**11323.1.** The Legislature finds and declares all of the following:

(a) The California Work Opportunity and Responsibility to Kids (CalWORKs) program serves the poorest families with children in the state by providing a basic needs cash grant and support services needed for family stabilization, employment, or job training. Childcare is a critical support service for CalWORKs families.

(b) Children in poverty are most in need of quality, stable early care and education to achieve their full potential. Research demonstrates the benefits of providing early care and education to ameliorate the effects of poverty and address inequities before achievement gaps widen.

(c) Families that are initially afforded the opportunity to participate in CalWORKs childcare are more likely to avoid sanction, and to be able to promptly participate in the necessary activities and progress toward economic stability, knowing that their children are in a safe, nurturing environment.

(d) While families may have access to other forms of childcare, in 2017, less than 30 percent of parents or other adult caretakers who were participating in the CalWORKs Welfare-to-Work Program and were responsible for the care of an eligible child were receiving Stage 1 childcare services.

(e) All Child Care and Development Services Act programs, except for CalWORKs Stage 1 childcare, have adopted 12-month continuous eligibility rules pursuant to subdivision (h) of Section 8263 of the Education Code. Aligning Stage 1 childcare eligibility periods with all other childcare and development programs will benefit families, childcare providers, and the state and local agencies that administer the various childcare programs.

**SEC. 3.** Section 11323.2 of the Welfare and Institutions Code is amended to read:

**11323.2.** (a) Necessary supportive services shall be offered and available to every participant to enable them to participate in a program activity or to accept or maintain employment. Necessary supportive services shall also be offered and available to every individual who is not required to participate, but chooses to participate voluntarily, to allow them to participate in a program activity or to accept or maintain employment. A participant who is required to participate and who does not receive necessary supportive services shall have good cause for not participating under subdivision (f) of Section 11320.3. Supportive services shall be listed in the welfare-to-work plan or other agreement entered into between the county and participant pursuant to this article, supportive services shall include all of the following:

(1) Childcare.

(A) Paid childcare shall be available to every participant, including an individual who is not required to participate, but chooses to participate voluntarily, with a dependent child in the household who needs paid childcare if the child is 12 years of age or under, or requires childcare or supervision due to a physical, mental, or developmental disability or other similar condition as verified by the county welfare department, or who is under court supervision. A county welfare department may verify the need for childcare or supervision for a child over 12 years of age from an individualized education plan or a statement from a qualified professional that the child is a child with exceptional needs, as defined in subdivision (l) of Section 8208 of the Education Code.

(B) First-stage childcare, as described in Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, shall be full time, unless the participant determines that part-time care better meets the family's needs. Upon establishing initial or ongoing eligibility for first-stage childcare services under this chapter, a family shall be considered to meet all eligibility and need requirements and be authorized for not less than 12 months, or until the participant is transferred to the second stage of childcare. This shall apply to every participant who indicates a need for childcare in order to engage in a program activity or employment, including a sanctioned participant who indicates an intent to participate in any program activity or employment. A participant may, at any time, indicate a new or increased need for childcare and the information shall be used, as applicable, to authorize childcare in accordance with this subparagraph or increase the family's services.

(C) Necessary childcare services shall be available to every former recipient for up to two years, pursuant to Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code. Beginning January 1, 2021, or the date that automation changes occur, as required for implementation, in the Statewide Automated Welfare System, whichever date is later, in the 18th month following the date of last receipt of aid, the county shall send a notice, via mail to the last known address, text message, or email, to a former recipient who is not currently receiving second or third stage childcare informing them that their eligibility for stage-two childcare will expire by the end of the 24th month following their last receipt of aid, and how to obtain stage-two childcare services. The department shall issue an all-county letter or similar directive by November 1, 2019, to implement this subparagraph, until regulations are adopted.

(D) A child in foster care receiving benefits under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.), or a child who would become a dependent child except for the receipt of federal Supplemental Security Income benefits pursuant to Title XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.), or a child who is not a member of the assistance unit but for whom the recipient is responsible for providing support, shall be deemed to be a dependent child for the purposes of this paragraph.

(E) The provision of care and payment rates under this paragraph shall be governed by Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code. Parent fees shall be governed by Sections 8263 and 8273.1 of the Education Code.

(2) Diaper costs.

(A) On and after April 1, 2018, a participant who is participating in a welfare-to-work plan shall be eligible for thirty dollars (\$30) per month to assist with diaper costs for each child who is under 36 months of age.

(B) The department shall adopt regulations by January 1, 2020, to implement this paragraph. Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department shall implement this paragraph through all-county letters until regulations are adopted.

(3) Transportation costs, which shall be governed by regional market rates as determined in accordance with regulations established by the department.

(4) Ancillary expenses, which shall include the cost of books, tools, clothing specifically required for the job, fees, and other necessary costs.

(5) Personal counseling. A participant who has personal or family problems that would affect the outcome of the welfare-to-work plan entered into pursuant to this article shall, to the extent available, receive necessary counseling and related supportive services, to help the participant and the participant's family adjust to the participant's job or training assignment.

(b) If provided in a county plan, the county may continue to provide case management and supportive services under this section to former participants who become employed. The county may provide these services for up to the first 12 months of employment to the extent they are not available from other sources and are needed for the individual to retain the employment.

(c) For the purposes of paragraph (1) of subdivision (a), "program activity" includes, but is not limited to, any welfare-to-work activity, orientation, appraisal, assessment, job search, job club, domestic violence services, court appearances, housing searches and classes, homeless support programs, shelter participation requirements, eviction proceedings, mental health services, including therapy or personal counseling, home visiting, drug and substance abuse services, parenting classes, and medical or education-related appointments for the participant or their dependents.

**SEC. 4.** Section 11323.3 of the Welfare and Institutions Code, as amended by Section 49 of Chapter 27 of the Statutes of 2019, is amended to read:

**11323.3.** (a) An applicant for, or a recipient of, CalWORKs benefits shall be informed of the availability of childcare services upon enrollment in the CalWORKs program, and at later times when a participant expresses to the county a need for childcare. The county shall verify if childcare is needed to participate in a program activity, as defined in subdivision (c) of Section 11323.2, and, if needed, that childcare services are authorized and that the participant has secured appropriate childcare prior to requiring a participant to participate in any mandatory activity. Verification that childcare has been secured may be established by the participant, the childcare contractor, or the childcare provider.

(b) An applicant for, or a recipient of, CalWORKs benefits shall be provided written notice, both at the time of application and when they sign an original or amended welfare-to-work plan, of the availability of paid childcare as provided in Section 11323.2. The notice shall inform applicants and recipients of all of the following:

(1) Paid childcare is available to allow them to be employed or participate in welfare-to-work activities or program activities, as defined in Section 11323.2.

(2) The name and contact information for the local childcare resource and referral program.

(3) Assistance in finding and choosing a childcare provider is available.

(4) A recipient is required to inform the county welfare department of the recipient's need for paid childcare as soon as that need arises.

(5) The recipient is required to request a childcare subsidy from the county within 30 days from the first day childcare services are received from each different provider, to be fully reimbursed for childcare services.

(c) Commencing January 1, 2021, or the date that the Statewide Automated Welfare System can perform the necessary automation to implement this subdivision, whichever date is later, the written notice described in subdivision (b) shall additionally be provided to the recipient at the time of orientation, when they are assigned to a program activity, when they report new or increased participation in a program activity, and when they report new earned income or employment.

(d) The written notice described in subdivision (b) shall be provided in compliance with the Dymally-Alatorre Bilingual Services Act (Chapter 17.5 (commencing with Section 7290) of Division 7 of Title 1 of the Government Code).

(e) An applicant for, or recipient of, CalWORKs benefits shall be asked to sign a copy of the written notice acknowledging that they have been informed of and received the notice. The signed notice shall be retained in the client's file and a signed original or copy shall be given to the client.

(f) No payment shall be made for childcare services provided pursuant to Section 8351 of the Education Code more than 30 days prior to the recipient's initial request for payment for the childcare service from that provider, when the recipient received the written notice described in subdivisions (b) and (d).

(g) The department shall work with counties and other stakeholders to do both of the following:

(1) Modify applicable CalWORKs notices and forms about childcare to include the information described in subdivision (b).

(2) Make the modified notices and forms available at times in addition to those specified in subdivision (b), such as at the time of orientation, when and where possible and appropriate.

(h) (1) The department shall develop regulations to implement this section.

(2) Notwithstanding paragraph (1) and the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement the amendments made to this section by the act that added this paragraph by all-county letter or similar directive until regulations are adopted.

**SEC. 5.** Section 11323.3 of the Welfare and Institutions Code, as added by Section 50 of Chapter 27 of the Statutes of 2019, is repealed.

**SEC. 6.** Section 11323.4 of the Welfare and Institutions Code is amended to read:

**11323.4.** (a) Payments for supportive services, as described in Section 11323.2, shall be advanced to the participant, whenever necessary, and when desired by the participant, so that the participant need not use the participant's funds to pay for these services. Payments for childcare services shall be made in accordance with Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of the Education Code.

(b) The county welfare department shall take all reasonable steps necessary to promptly correct any overpayment or underpayment of supportive services payments to a recipient or a service provider, including, but not limited to, all cases involving fraud and abuse, consistent with procedures developed by the department.

(c) Notwithstanding any other provision of this article, any participant in on-the-job training who becomes ineligible for aid under this chapter due to earned income or hours worked, shall remain a participant in the program under this article for the duration of the on-the-job training assignment and shall be eligible for supportive services for the duration of the on-the-job training, provided this duration does not exceed the time limits otherwise applicable to the recipient.

(d) Notwithstanding any other provision of this article, any participant in on-the-job training, grant-based on-the-job training, supported work, or transitional employment who remains eligible for aid pursuant to this chapter, shall be eligible for transportation and ancillary expenses pursuant to paragraphs (3) and (4) of subdivision (a) of Section 11323.2.

(e) (1) Participants shall be encouraged to apply for financial aid, including educational grants, scholarships, and awards.

(2) To the extent permitted by federal law, the county shall coordinate with financial aid offices to establish procedures whereby the educational expenses of participants are met through available financial aid and the supportive services described in Section 11323.2. These procedures shall not result in duplication of payments, and shall require determinations to be made on an individual basis to ensure that using financial aid will not prevent the person's participation in their welfare-to-work plan.

(f) (1) Notwithstanding Section 10850, for purposes of childcare supportive services, county welfare departments shall share information necessary for the administration of the childcare programs and the CalWORKs program.

(2) By January 1, 2021, or the date that automation changes occur, as required for implementation of this section, in the Statewide Automated Welfare System, whichever date is later, a county welfare department shall provide limited, read-only, online access through individual county-level Statewide Automated Welfare System (SAWS) databases to local contractors providing CalWORKs childcare services. Access provided pursuant to this paragraph shall include a single summary page that contains current individual family data needed to enroll a family in CalWORKs childcare services or to transfer a family between stages. This data shall include, but not be limited to, all of the following items, if applicable:

(A) All of the information required in subdivision (a) of Section 18409 of Title 5 of the California Code of Regulations, or any successor regulation thereto.

(B) If the family is no longer receiving CalWORKs cash aid, the date that a parent or adult caretaker last received CalWORKs cash aid.

(3) Paragraph (2) does not supersede any agreement between a county and a CalWORKs childcare contractor that was in effect on January 1, 2020, and provides for online access via the legacy Statewide Automated Welfare System to the data described in that paragraph.

(4) Beginning January 1, 2021, or the date that automation changes occur, as required for implementation of this section, in the Statewide Automated Welfare System, whichever date is later, a county welfare department shall provide to stage-two contractors on a monthly basis a report of all families for which the parent's cash aid has been discontinued, the parent has not received aid for at least one month, and the parent has children in the home who are eligible for childcare services. The report shall include the parent's most up-to-date contact information. The report shall be jointly designed with representatives from the department, the County Welfare Directors Association of California, and Parent Voices, in consultation with county welfare departments and SAWS.

(5) A county welfare department may provide training on security protocols and confidentiality of individual family data to a contractor who is given access to data pursuant to this subdivision.

(6) This subdivision is not intended to limit the information shared for the administration of childcare in addition to the data described in paragraph (2).

(7) After consultation with stakeholders, the department shall issue an all-county letter or similar directive by November 1, 2019, to implement paragraphs (2) to (6), inclusive, until regulations are adopted.

**SEC. 7.** Section 46 of Chapter 27 of the Statutes of 2019 is repealed.

**SEC. 8.** Item 5180-490 is added to Section 2.00 of the Budget Act of 2019, to read:

5180-490—Reappropriation, Department of Social Services.  
The balances of the appropriations provided in the following citations are reappropriated for the purposes provided for in those appropriations and shall be available for encumbrance or expenditure until June 30, 2021:

0001—General Fund

- (1) Item 5180-111-0001, Budget Act of 2017 (Chs. 14, 22, and 54, Stats. 2017)

Provisions:

1. Funds appropriated pursuant to Provision 7 of Item 5180-111-0001, Budget Act of 2017, for the Housing and Disability Income Advocacy Program to increase participation among homeless persons with disabilities who may be eligible for disability benefits programs pursuant to Section 18999.1 of the Welfare and Institutions Code, but unexpended as of June 30, 2020, shall be available for encumbrance or expenditure until June 30, 2021.

**SEC. 9.** If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

**SEC. 10.** This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.