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June 29, 1972

Mr. Bob Rosenberg, Consultant
Assembly Welfare Committee
State Capitol, Room 2188
Sacramento, California 95814

Dear Bob:

As per our June 29th conversation -

Senator Collier suggests that the amendments to AB 282 include the following points:

1. None of the appropriation shall be used to hire attorneys for the State Department of Social Welfare.
2. The funds will be appropriated in a separate budget item to enable the Legislature to audit their use.
3. The positions created by the measure will automatically terminate at the end of the 1972-73 fiscal year.

The State Department of Social Welfare staff is now working on redrafting amendments.

Sincerely,

Philip J. Manriquez
Legislative Coordinator

PJM:rlp

Assembly Welfare Committee

DEPARTMENT OF BENEFIT PAYMENTS

February 6, 1974

REFER TO:

*cc to Hatt
for
Bib
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WR 7*

HONORABLE WILLIAM T. BAGLEY, Chairman
Assembly Welfare Committee
State Capitol, Room 2188
Sacramento, California 95814

Dear Assemblyman Bagley:

This letter is in response to a request made at the hearing on February 4 concerning the implementation of the Monthly AFDC Eligibility and Income Report (WR 7). You asked that the Department provide you with the statutory authority for adopting regulations implementing the WR 7.

The actual responsibility for the administration of aid is placed with the County Board of Supervisors (Welfare and Institutions Code § 10800) who are required to establish a county welfare department (which is the county agency to administer AFDC pursuant to § 10800). The county welfare director, who acts on behalf of the board of supervisors, is under a duty to administer and enforce the provisions of the code pertaining to public social services under the regulations of the Department. (Section 10802) The county director must comply with the regulations of the Department. (Section 10605)

Although § 11265 provides that the county shall redetermine eligibility annually, consistent with its duty to carry out the actual administration of aid, the provision which states that the county "may monthly" require the AFDC family to complete a certificate of eligibility is interpreted to grant to the county discretion as to the timing of eligibility redeterminations in the absence of a regulation by the Department that eligibility must be redetermined monthly.

The Department's authority to supervise the administration of aid within the state is clear. It is provided in Welfare and Institutions Code § 10600 that the Department is the single state agency with full power to supervise every phase of the administration of aid for which grants-in-aid are received from the United States Government or made by the state in order to secure full compliance with the applicable provisions of state or federal law.

Assembly Welfare Committee

Although, for example, § 11265 provides that the county shall redetermine eligibility annually, the Department, pursuant to § 10600, has the authority and, prior to implementing the WR 7 system, exercised this authority, to require such redetermination at least every six months to comply with 45 CFR 206.10(a)(9)(iii). This requirement is independent of § 11265.

The Legislature has provided in Welfare and Institutions Code § 10604 that in administering any funds appropriated or made available to the Department for disbursement through the counties for welfare purposes the Department shall:

"(b) Establish regulations, not in conflict with the law fixing statewide standards for the administration of all state or federally assisted aid programs, defining and controlling the conditions under which aid may be granted or refused. All regulations established by the Department shall be binding upon the boards of supervisors and the county department."

With respect to the Aid to Families with Dependent Children program to which the WR 7 system is applicable, it is provided in Welfare and Institutions Code § 11209 in relevant part:

"The Department shall make rules and regulations for the administration of aid to families with dependent children. Such rules and regulations shall be binding upon the counties."

The Department, as the single state agency charged with the supervision of the administration of the federal grant-in-aid programs, and the Department vested with full authority to establish regulations for the administration of aid programs (and specifically with regard to AFDC), must by definition have the ultimate authority to establish rules and regulations with respect to continuing eligibility of recipients of AFDC.

The authority granted to counties to redetermine eligibility monthly is permissive and is qualified by the phrase "or at such other intervals as may be deemed necessary." This latter phrase is interpreted to reflect legislative intent that the Department has general authority as described above to mandate the intervals and conditions under which AFDC eligibility may be redetermined. The permissive authority granted to the counties under Welfare and Institutions Code § 11265 is therefore operative only to the extent that the Department has not adopted mandatory regulations with implementation of the WR 7 system. Such mandatory regulations are now in effect.

HONORABLE WILLIAM T. BAGLEY
February 6, 1974
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If you need any further information concerning implementation of the WR 7 system, the Department is available to provide such assistance to your Committee.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dave", written over the word "Sincerely,".

DAVID B. SWOAP
Director