

**State of California
Office of Administrative Law**

In re:
Department of Social Services

Regulatory Action:
Manual of Policies and Procedures

Adopt sections: 51-001, 51-010, 51-101,
51-110, 51-120, 51-130,
51-140

Amend sections: 40-107

**DECISION OF DISAPPROVAL OF
REGULATORY ACTION**

Government Code Section 11349.3

OAL Matter Number: 2025-1001-01

OAL Matter Type: Regular (S)

SUMMARY OF REGULATORY ACTION

In this regulatory action, the Department of Social Services (Department) proposes to add sections to its Manual of Policies and Procedures (MPP) to establish the Home Visiting Program (HVP). The regulations set forth definitions, county responsibilities, program eligibility and service requirements, and rules related to program participation. The regulations also address data collection.

On October 1, 2025, the Department submitted the above-referenced regulatory action to the Office of Administrative Law (OAL) for review. On November 13, 2025, OAL notified the Department that OAL disapproved the proposed regulatory action pursuant to the Administrative Procedure Act (APA). This Decision of Disapproval of Regulatory Action explains the reasons for OAL's action.

DECISION

OAL disapproved the action because the proposed regulatory changes failed to comply with the clarity standard of Government Code section 11349.1, subdivision (a)(3).

DISCUSSION

The Department's regulatory action must satisfy requirements established by the part of the APA that governs rulemaking by a state agency. Any regulation adopted, amended, or repealed by a state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its

procedure, is subject to the APA unless a statute expressly exempts the regulation from APA coverage. (Gov. Code, sec. 11346.) No exemption applies to this regulatory action.

Before any regulation subject to the APA may become effective, the regulation is reviewed by OAL for compliance with the procedural requirements of the APA and the standards for administrative regulations in Government Code section 11349.1. Generally, to satisfy the APA standards, a regulation must be legally valid, supported by an adequate record, and easy to understand. In this review, OAL is limited to the rulemaking record and may not substitute its judgment for that of the rulemaking agency regarding the substantive content of the regulation. This review is an independent check on the exercise of rulemaking powers by executive branch agencies intended to improve the quality of regulations that implement, interpret, and make specific statutory law, and to ensure that the public is provided with a meaningful opportunity to comment on regulations before they become effective.

CLARITY

In adopting the APA, the Legislature found the language of many regulations to be unclear and confusing to persons who must comply with the regulations. (Gov. Code, sec. 11340, subd. (b).) Government Code section 11349.1, subdivision (a)(3), requires that OAL review all regulations for compliance with the clarity standard. Government Code section 11349, subdivision (c), defines “clarity” to mean “written or displayed so that the meaning of the regulations will be easily understood by those persons directly affected by them.”

The “clarity” standard is further defined in section 16 of title 1 of the California Code of Regulations (CCR), which provides:

- In examining a regulation for compliance with the “clarity” requirement of Government Code section 11349.1, OAL shall apply the following standards and presumptions:
- (a) A regulation shall be presumed not to comply with the “clarity” standard if any of the following conditions exists:
 - (1) the regulation can, on its face, be reasonably and logically interpreted to have more than one meaning; or
 - (2) [...]
 - (3) [...]
 - (4) [...]
 - (5) the regulation presents information in a format that is not readily understandable by persons “directly affected;” or
 - (6) [...]

- (b) Persons shall be presumed to be “directly affected” if they:
- (1) are legally required to comply with the regulation; or
 - (2) are legally required to enforce the regulation; or
 - (3) derive from the enforcement of the regulation a benefit that is not common to the public in general; or
 - (4) incur from the enforcement of the regulation a detriment that is not common to the public in general.

The following provisions in the Department’s proposed regulatory action do not satisfy the clarity standard.

1. Proposed section 51-101.11

Proposed section 51-101.11 states, in part:

.11 As part of the award process, County Welfare Departments that choose to participate in the CalWORKs HVP shall submit a county HVP plan when applying for funding, **as requested by the Department.** The application **must include but may not be limited to** a description of all of the following:...
[Emphasis added.]

Proposed section 51-101.11 is unclear because it can reasonably and logically be interpreted to have more than one meaning and it presents information in a format that is not readily understandable by persons “directly affected.” (Cal. Code Regs., tit. 1, sec. 16, subds. (a)(1) and (a)(5).) The phrase “as requested by the Department” suggests that the Department may request the county HVP plan to be submitted in a specific format or at a specific frequency that is not set forth in regulation making it unclear when or how a county HVP plan must be submitted when applying for funding. Additionally, the language “must include but may not be limited to” makes it unclear whether the applicant will be required to provide additional information in the application beyond that expressly listed in section 51-101.11.

2. Proposed section 51-120.1

Proposed section 51-120.1 states:

.1 Counties that receive funding for the CalWORKs HVP shall provide data, **as requested by the Department**, that is necessary to administer the program and also related to the outcomes of participants and children, **including but not limited to** race,

ethnicity, national origin, primary and secondary language, and county.
[Emphasis added.]

Proposed section 51-120.1 is unclear because it can reasonably and logically be interpreted to have more than one meaning and it presents information in a format that is not readily understandable by persons “directly affected.” (Cal. Code Regs., tit. 1, sec. 16, subds. (a)(1) and (a)(5).) The phrase “as requested by the Department” suggests that the Department may request the data to be submitted in a specific format or at a specific frequency that is not set forth in regulation making it unclear when or how counties must submit the data. Additionally, the phrase “including but not limited to” makes it unclear whether the Department is seeking to collect additional data beyond the items expressly specified in regulation.

3. Proposed section 51-120.2

Proposed section 51-120.2 states:

.2 Counties that contract with public or private agencies to provide home visiting services shall establish a data sharing agreement to obtain **required data** from the agency and provide the data to the Department.
[Emphasis added.]

For proposed section 51-120.2, the Initial Statement of Reasons (ISOR) states:

Specific Purpose:

This section is adopted to include county responsibility to establish a data sharing agreement between county and their public or private contractor to obtain data **as requested by the Department.**

Factual Basis:

This section is necessary to provide CWDs with information that counties that contract with a public or private agency shall establish a data sharing agreement to obtain required data from the agency, **as requested by the Department.** This section is consistent with WIC section 11330.8(c) and consolidates the policy in one place.
[Emphasis added.]

Proposed section 51-120.2 is unclear because it presents information in a format that is not readily understandable by persons “directly affected.” (Cal. Code Regs., tit. 1, sec. 16, subd. (a)(5).) The reference to “required data” is vague and does not clearly identify whether the data required to be provided to the Department is the same data specified in proposed section 51-120.1. The ISOR states that the counties must obtain data “as requested by the Department,” a phrase which is not found in proposed section 51-120.2. As written, it is unclear whether the data obtained by the county is limited to what is required by statute or regulation, or whether the Department may request additional data in its discretion.

4. Proposed section 51-130.112

Proposed section 51-130 states:

.11 To be eligible to voluntarily participate in the CalWORKs HVP an applicant shall meet both of the following criteria:

.111 The individual is one of the following:

(a) A member of a CalWORKs assistance unit.

(b) A caretaker relative of a child-only case.

(c) An individual who is apparently eligible for CalWORKs aid as defined in Section 40-129.11.

.112 The individual is one of the following:

(a) A pregnant person, as verified by a verbal or written attestation.

(b) An individual who is the parent or caretaker relative of a child less than 24 months of age at the time the individual enrolls in CalWORKs HVP.

(c) An individual who meets the criteria for an **additional population as determined by the county** that does not meet (a) or (b). **The county must obtain approval from the Department to serve that population.**

[Emphasis added.]

Welfare and Institutions Code section 11330.6, subdivision(c)(2), states, in part:

(c)[...]

(2) A voluntary participant shall meet both of the following criteria:

(A) The individual is one of the following:

(i) A member of a CalWORKs assistance unit.

- (ii) The parent or caretaker relative for a child-only case.
- (iii) An individual who is apparently eligible for CalWORKs aid.
- (B) (i) The individual is pregnant or the individual is a parent or caretaker relative of a child less than 24 months of age at the time the individual enrolls in the program.
- (ii) A county may serve **additional individuals** not described in clause (i) **with departmental approval**.
[Emphasis added.]

Proposed section 51-130.112 is unclear because it presents information in a format that is not readily understandable by persons “directly affected.” (Cal. Code Regs., tit. 1, sec. 16, subd. (a)(5).) Although Welfare and Institutions Code section 11330.6, subdivision (c)(2), provides the Department with discretion to approve a county to serve additional individuals, the proposed regulation does not specify how approval is obtained or the bases upon which the Department will decide whether to approve the additional population.

5. Proposed sections 51-130.24 and 51-130.25

Proposed sections 51-130.24 and 51-130.25 state:

- .24 Participants **may be determined ineligible** and disenrolled prior to completion of the CalWORKs HVP when there are no other eligible children in the assistance unit and either of the following are true:
 - .241 The eligible child is permanently removed from, or cannot be added to, the assistance unit due to death of the child, termination of parental rights, or relinquishment of parental rights.
 - .242 At the time of enrollment, the participant was determined eligible based on pregnancy pursuant to Section 51-130.112(a) and that pregnancy did not result in birth.
- .25 When the circumstances described in Section 51-130.241 or .242 occur, HVP services **may continue if there is another child** in the assistance unit who meets the eligibility criteria under the applicable evidence-based model. Their participation in HVP will be completed once they have been enrolled for 24 months or become ineligible for the applicable evidence-based model, whichever is sooner.
[Emphasis added.]

Proposed sections 51-130.24 and 51-130.25 are unclear because they can reasonably and logically be interpreted to have more than one meaning and

they present information in a format that is not readily understandable by persons "directly affected." (Cal. Code Regs., tit. 1, sec. 16, subds. (a)(1) and (a)(5).) The use of "may" makes it unclear what conditions are taken into consideration to determine when the recipient participant is eligible or ineligible to participate in the HVP. As written, if the events discussed in sections 51-130.241 or 51-130.242 occur, the recipient participant may be ineligible and can no longer participate, or they may still be eligible and can still participate. However, the regulation does not specify how this determination will be made.

CONCLUSION

For the foregoing reasons, OAL disapproved the above-referenced regulatory action. Pursuant to Government Code section 11349.4, subdivision (a), the Department may resubmit revised regulations within 120 days of its receipt of this Decision of Disapproval of Regulatory Action. A copy of this Decision will be emailed to the Department on the date indicated below.

The Department must make any substantive regulatory text changes, which are sufficiently related to the originally noticed text, available for public comment for at least 15 days pursuant to subdivision (c) of Government Code section 11346.8 and section 44 of title 1 of the CCR. Any objections or recommendations raised by the public during the 15-day public comment period must be summarized and responded to in the Final Statement of Reasons. The Department must resolve all issues raised in this Decision of Disapproval of Regulatory Action prior to the resubmittal of this regulatory action.

If you have any questions, please do not hesitate to contact me at (916) 323-6824.

Date: November 20, 2025

/s/

Thanh Huynh
Senior Attorney

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