

BRINGING FAMILIES OUT OF ‘CAP’TIVITY: THE NEED TO REPEAL THE CALWORKS MAXIMUM FAMILY GRANT RULE

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EXECUTIVE SUMMARY

Under the current Maximum Family Grant (MFG) rule of the CalWORKs program, infants born into families already receiving CalWORKs assistance are denied cash aid. Poverty exacerbated by the MFG rule can lead to poorer health and social outcomes for children whose basic needs may go unmet without the vital financial support they would otherwise receive through CalWORKs. AB 271, authored by California Assemblymember Holly Mitchell (D-Los Angeles) and co-sponsored by ACCESS Women’s Health Justice, the East Bay Community Law Center, and Western Center on Law and Poverty, would repeal the MFG rule to provide for the basic needs of newborn children while allowing women to make family planning decisions free from governmental intrusion. This issue brief outlines the punitive nature and racist history of family caps measures, highlights their impact on child poverty and women’s reproductive rights and discusses the need for their repeal.

THE RULE, ITS ORIGINS AND EXEMPTIONS

The California Work Opportunity and Responsibility to Kids (CalWORKs) program provides basic needs cash grants to poor families to help lessen the detrimental impact of poverty on children. Federal funding for the program comes from the Temporary Assistance for Needy Families (TANF) block grant, authorized by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, commonly referred to as, “welfare reform.” CalWORKs serves 3% of the state’s population, just a fraction of the 15.7% of Californians who live below the federal poverty level (AB 271 Fact Sheet, 2013). States have the option to establish child exclusion policies, also

known as, “welfare family caps,” which deny cash aid to children born into families in which any member is already receiving cash aid through the state’s TANF-supported welfare program.

According to the CalWORKs Maximum Family Grant (MFG) rule, cash assistance will be denied to a child born into a family in which any parent or child was receiving cash aid 10 months before the child’s birth. There are several exemptions to the MFG rule. California is the only state with a family cap to have an exemption for a birth resulting from contraceptive failure. However, the pregnancy must occur while a woman is using one of few approved methods of birth control: Norplant (unavailable in the United States since 2002), Depo-Provera, the Intra Uterine Device or sterilization. Notably, each of these contraceptives is a highly invasive, long-acting method a woman cannot initiate or terminate herself, and, in the case of sterilization, is permanent. In other words, women on public assistance are faced with deciding whether to utilize long-term (or permanent) contraceptives or risk becoming pregnant with a child who will not be covered by CalWORKs.

Beyond encouraging women to use certain contraceptive methods, these exemptions also invade the personal privacy of mothers, particularly those who are forced to decide between disclosing personal and confidential medical information and going without cash aid for their newborns. For example, an exemption to the MFG rule is made if a child is conceived as a result of incest or rape. However, this requires that the sexual assault be reported to a medical, mental health or law enforcement agency within a particular time period.

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REPEAL EFFORTS

Assembly Bill 271 is an act to add Section 11270.5 to, and to remove Section 11450.04 from, the Welfare and Institutions Code, relating to CalWORKs. Authored by Assemblymember Holly Mitchell (D-Los Angeles) of the 47th Assembly District of California, AB 271 will repeal the MFG rule and its problematic exemptions from CalWORKs legislation. If AB 271 passes, women in families receiving CalWORKs will no longer be pressured to use forms of contraception that are long-acting or permanent in order to avoid conception of a child denied cash aid. Survivors of sexual assault and incest will no longer be forced to divulge to welfare workers, and report to authorities, intimate details about the violence they have suffered in order to cover the basic needs of a child conceived through nonconsensual sex. Families already struggling to make ends meet will no longer see their per capita funding go down after the arrival of a new baby banned from cash aid. With the passage of AB 271 and the repeal of the MFG rule, a child born into a family receiving CalWORKs assistance will be eligible to receive cash aid through that program.

The MFG rule has met resistance in California since it was created in 1994. Despite opposition, the rule has prevailed, affecting thousands of families over the past 19 years. The most significant mobilization against the MFG rule thus far has been the Provide for Every Child bill (AB 22) of 2007, which was introduced by Assemblymember Sally Lieber (D-Mountain View) of the 22nd Assembly District and co-sponsored by the East Bay Community Law Center and the Women of Color Resource Center. The bill aimed to revoke the MFG rule on the grounds that a legislative act excluding poor children from receiving necessary assistance is not in the best interests of children. AB 22 failed to make it through the legislature due to state budget concerns connected to the financial crisis in 2007. In 2011 Assemblymember Mariko Yamada (D-Davis) of the 4th Assembly District introduced AB 833, which would have revised the exemptions to the MFG rule to include newborns with disabilities. AB 833 was similarly unsuccessful due, in part, to budget-related concerns.

INTENDED RESULTS AND ACTUAL EFFECTS

The MFG rule, and similar child exclusion policies in other states, stem from a theory that cash aid serves as a disincentive for poor women to marry and an incentive for them to have more children. As the theory goes, by denying cash aid, states can make marriage more compulsory and reproduction more off-putting, thus alleviating poverty and decreasing welfare dependence. In its most basic form, the primary objective of a family cap rule is to alter the sexual,

marital and reproductive behaviors of welfare recipients. This aim is apparent in the words of California Representative George Radanovich (R-CA) during Congressional debates of federal welfare reform, "In July 1994, California passed common-sense 'family cap' welfare reform legislation to end the perverse practice of increasing payments to welfare recipients who have additional children. This practice usurps the role of husbands and drives men away from their families." (Hancock 2004, p. 99).

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- Rep. George Radanovich

While policymakers may hope that such provisions will change the reproductive behavior of welfare recipients, a review of research conducted in California and other states suggest they do not (Romero and Agenor 2009; Romero and Fuentes 2010; Smith 2006). Firstly, the assumption that women on welfare have more children than do others is false; most CalWORKs families include one or two children, a figure that is consistent with the birthrate of the state's general population (Public Policy Institute of California 2012). Several studies have found no clear relationship between family caps and a reduction in births (Camasso 2007; Dyer and Fairlie 2004; GAO 2001, Joyce et. al. 2004, Romero 2009; Schettini Kearney 2004). The one national study that showed links between family caps and lower birthrates discovered that they only existed in states that provided public funding for poor women's abortions (Camasso and Jaggannathan 2009).

Beyond the data demonstrating that family caps are failing to have their intended effect, other studies show that family caps are, in fact, harmful for families in other ways. Despite state assistance, most welfare recipients live in dire poverty. The average CalWORKs family grant is \$464/month, putting a family of three at only 29% of the Federal Poverty Level (AB 271 Fact Sheet). Even with the support of CalWORKs, families frequently cannot afford to take care of their daily needs (Children Now 2008; Smith 2006). Moreover, research indicates that preventing families from receiving basic necessities by reducing welfare benefits could lead to greater familial poverty, which in turn contributes to worse health and social outcomes for children. For example, children from poor families are more likely to experience mental (cognitive and

emotional) and physical health challenges than do children from affluent families (McKernan and Ratcliffe 2006). As it stands, the current system of public assistance does not provide adequately for the poor.

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Research indicating that family caps put poor children at greater risk is not surprising, given that they cause financially strapped families to search desperately for ways to support their newborn child(ren) without cash aid. Although the additional amount of aid a family would receive is scarcely enough to pay for a child's basic needs (for most California families, \$122 per additional child per month), it makes a difference in a family's security and ability to function (California Health and Human Services Agency 2012). Children born into families capped by the MFG face increased risks for homelessness and other hardships associated with extreme poverty. The newborn is likely to suffer the most, as aid is being denied when it is crucial to the child's development. One study found that family caps increase the poverty rate of children by 13.1% (McKernan & Ratcliffe 2006).

The impact of these circumstances on the lives of California's children is significant. A 2006 study of 2,000 women in California assessing the impact of family caps on the reproductive decision making and family wellbeing said, "By every parameter of family security reported on, families with excluded children were less secure than families that had not been capped" (Burnham and Desai 2009, p. 38). Women whose welfare benefits were capped reported higher levels of hardship and distress, higher levels of housing and food insecurity; were more likely to struggle with paying for transportation and utilities and had a significantly harder time providing diapers and clothing for their children. Perhaps most disturbingly, women whose benefits were capped were more likely to have taken a child to the hospital in the preceding six months. As poverty is a known contributor to childhood disease, it is very likely that a child's lack of access to basic necessities leads to ill health. Infants and toddlers in families that face grant reductions experience a 30% increase in hospitalization and a 90% higher risk of hospitalization when they visit the emergency room than in families that receive full grants (Joyce, et. al 2004).

Thus, available data show that family caps are not having their intended result of alleviating poverty, but rather exacerbating child poverty and its repercussions.

"I am the mother of two twins impacted by the MFG rule. I did not know that the MFG rule existed when I became pregnant with the twins or when I gave birth to them... I actually never thought about getting money for them or not getting money for them because that was not a part of my thinking. However, I do wish that we could get aid for them, because having money would help them... When we first had the twins, the only person in my family getting aid was my oldest son... I had timed out and wasn't getting aid. The twins were subject to the MFG rule. We were living off \$317 a month. We didn't have money to buy them car seats to get home (from the hospital) and had to go asking our friends and families to help loan us their car seats... We didn't have money to pay for diapers, wipes, shampoos, and toiletries... I am here to tell you that I am trying my best to be a great mom. I do not need to be punished for deciding to have children. I am glad I had them. I want what is best for them. The MFG rule is not good for my children or California's children."

- Testimony by Melissa Ortiz at
California Assembly Human Services Committee
Hearing on AB 271, April 2013

Welfare, like most safety net programs, has come to be associated with racial and ethnic minorities. One scholar noted, "It is difficult to conceive of a more racially linked policy than welfare reform..." (Camasso 2007, see also Hancock 2004). While several scholars have documented how welfare has been associated particularly with African-American women and their families, other groups, such as Mexican immigrants and Puerto Ricans, have also been stereotyped in relation to their perceived usage of welfare (Gutiérrez 2003, 2008; Hancock 2004; Lopez 2008; Roberts 1997; Solinger 2002). Welfare policy relies on a number of myths and assumptions about those who receive benefits. Many of these misconceptions are based on stereotypes of people of color as 'lazy' and women as 'gaming the system' in order to avoid working and taking responsibility for themselves and their children.

Today one common characterization of women who receive welfare is that they become dependent on the state and purposely have more babies to secure increased benefits (Gutiérrez 2003; McBurney 2003; Roberts 1997; Smith 2006). A 1994 national survey of public knowledge about welfare and opinions about its reform showed that 64% of respondents thought that women on welfare have children to receive more cash aid (Kaiser Family Foundation 1995). However, social

science research has found that welfare recipients do not have additional children for the purpose of obtaining an increase in benefits (Smith 2006).

Although child exclusion policies are mostly a product of 1990's welfare reform, the ideas behind them — that poor women have children irresponsibly and, therefore, deserve to have their reproduction controlled by authorities — are longstanding. Some scholars have likened family caps to the eugenic sterilization efforts at the beginning of the 20th century, "The MFG rule evolved from America's eugenic laws that once forced sterilization upon its [presumed] inferior and, therefore, reproductively unfit population" (McBurney 2011, p. 500; also see Simmonds 2006). Mexican immigrants, poor people, the disabled and mentally ill have been targeted for forced sterilization or population control over the course of U.S. history.

An image that became central to discussions of public assistance was cemented in American culture during Ronald Reagan's 1976 presidential campaign when he described a "welfare queen" from Chicago's South Side. His depiction characterized a manipulative woman who was receiving over \$150,000 in benefits from having created more than 80 identities from which to milk the system (New York Times, 1976). By the mid-1990's, Reagan's 'welfare queen,' most commonly associated with an African-American woman, became a well-recognized caricature in the racial politics of the U.S. (Onwuachi-Willig 2005, Quadagno 1996, Roberts 1997, Solinger 2002) and served as ideological fodder for those who wanted to eliminate welfare and other public benefits programs (Hancock 2004; Smith 2006). Hancock (2004) argues that it is because of this imagery that the 1996 federal welfare reform effort was successful. Although the trope of the welfare queen is deeply associated with African Americans in the public mind, low-income immigrant groups in large urban areas are also depicted as duplicitous in regard to their use of public assistance (Bridges 2012; Gutiérrez 2008, Lopez 2008).

The characterization of poor people of color as irresponsible reproducers who are welfare-dependent was so pervasive during the 1970's that thousands were sterilized without their knowledge or consent throughout California and the nation (Gutiérrez 2003, 2008; Silliman et. al. 2004). For example, low-income Mexican origin women were targeted for coercive sterilization in California when public concern arose about perceived growth of a welfare-dependent class and women having crossed the border to receive welfare benefits (Gutiérrez 2003, 2008). During the mid-1990's, the 'welfare queen' re-emerged in public discussions, especially during the bipartisan effort to overhaul the federal welfare system, replacing Aid to

Families with Dependent Children with TANF (Hancock 2004). Despite TANF's 60-month lifetime limit on benefits and other restrictions that contradict claims about welfare incentivizing childbearing, the legacy of the 'welfare queen' endures and continues to shape public perception and legislative policy.

"We are not becoming mothers to collect welfare. I want to work, but it has been hard. The economy has been tough. I try to put myself out there by volunteering and trying to build my resume so that I can help myself and help other families in need."

- Melissa Ortiz

STATUS OF FAMILY CAPS IN OTHER STATES AND RESISTANCE

Since the early 1990's, 24 states have implemented a child exclusion, or family cap, rule in their welfare programs, the majority of which exclude all cash benefits for a newborn (Levin-Epstein 2003). Today, California is one of 16 states where a family cap remains in place. Maryland and Illinois eliminated their programs in 2002 and 2003, respectively, leading the way for other states. Wyoming, Nebraska, Oklahoma, Kansas and Maryland followed by repealing their child exclusion policies, most commonly because they found that family caps were unsuccessful.

In October 2002, Maryland allowed counties to opt out of its "child-specific benefit," and all have done so (Levin-Epstein 2003). Illinois conducted research that indicated its family cap did not change the reproductive behavior of welfare recipients. With the aim of ensuring long-term savings for the state, Illinois began to phase out its child exclusion policy in 2003, adjusting the budget over several years until it was terminated entirely in July 2007. In Nebraska, where each additional child would increase the family's monthly cash grant by \$71, the family cap was repealed in 2007. The repeal effort in Nebraska was introduced as a bill based on the argument that the child exclusion rule deviated from the intended purpose of public policies designed to support and provide resources for children in need. In March 2013, Minnesota's Senate Committee on Health, Human Services and Housing approved a bill that would repeal the family cap rule in its welfare law, after concluding that it was a "failed" policy.

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The repeal efforts in these eight states were informed by the projected fiscal impacts of lifetime costs related to children raised in poverty and the long-term economic incentives to reduce them. In addition, several states found that their policies were not delivering the intended result of reducing childbearing by welfare recipients. While individual motivations to repeal state family caps vary considerably, there is growing interest among advocates in a nationwide repeal that is based on a human rights framework and coalitional models less beholden to state politics (Davis 2013, Romero and Fuentes 2010).

CONCLUSION

The MFG rule of the CalWORKs program is a form of population control that attempts to limit the number of children born into families receiving public aid by denying benefits to newborns. Exemptions to the rule, though laudable in principle, are lamentable in practice, coercing women to use highly invasive, long-acting or permanent forms of contraception and forcing survivors of sexual violence to disclose private information in order to save their newborns from being banned from CalWORKs coverage. By driving families deeper into poverty, the MFG rule threatens access to housing, food security, and general health of the poorest children. A cutoff from public assistance has also been linked to other physical, mental, and social detriments for children born into capped families. Moreover, child exclusion policies are a violation of human rights, which guarantees all children the right to have their basic needs met and all women the right to decide the number and spacing of their children (Romero and Fuentes 2010).

Welfare family caps are often rooted in racist, classist, and sexist sentiments about irresponsible reproducers, bad mothers, and drains on society; they are also based on unproven theories of behavior modification. The MFG rule fails to reach its supporters' aims of disincentivizing childbearing and reducing family size among CalWORKs recipients. Studies indicate that family caps largely have not altered the reproductive behavior of welfare participants, but rather increased the impact of poverty among mostly young, poor, single mothers and their children. By focusing on the personal behaviors of women, the MFG rule diverts attention away from the real, structural sources of inequality and poverty in this nation. The experiences of women in California echo studies conducted across the nation that indicate family caps make it difficult to survive and impossible to thrive. The MFG rule and similar policies that attempt to coerce reproductive choices and, in failing to do so, punish poor parents and children, must be eliminated.

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To learn more about the CalWORKs Maximum Family Grant Rule and to find out how you can get involved in efforts to repeal it, visit <http://271repealcalworksmfg.wordpress.com>, and sign up for updates and action alerts.