Law Office

August 18, 1967

Assemblyman Eugene A. Chappie, Chairman
Assembly Social Welfare Committee
State Capitol, Room 4014
Sacramento, California 95814

Dear Gene:

I am replying to the correspondence that you sent me from Assemblyman Craig Biddle and the District Attorney of Riverside County concerning relative responsibility in the program of Aid to the Disabled.

Assembly Bill No. 59, approved by the Legislature in 1963, eliminated relative responsibility in the Blind and Disabled programs. As noted by the Riverside District Attorney, Welfare and Institutions Code Section 13600 concerning the disabled program is very explicit. On this basis the department eliminated reference to responsible relatives in its regulations. However, the law is not entirely clear on the question of relative responsibility for minors between 18 and 21.

Federal and state requirements provide that eligibility for public assistance must take into account all resources in determining need. Section 13550 provides that aid may be granted only to a disabled person "who is not receiving adequate support from a husband or wife or parent or child". We interpret this to mean that there must be a showing, before aid is approved, that the individual is not in fact being supported by his parents or other relatives. Experience indicates, particularly for the mentally retarded, that there is considerable variation in practice among the counties in applying this section of the law. More explicit instructions appear necessary. The department is giving consideration to the need for a revision of Section 13600 of the W&I Code to clear up the current ambiguity.

I am very appreciative for having received this information on the case situation which was referred by the District Attorney's Office, Riverside County, through Senator Craig Biddle. I intend to follow up on this case. I want to know how many cases like this receive assistance. In addition, I want to learn the total amount of assistance expended for such cases.

Sincerely yours,

John C. Montgomery

John C. Montgomery
Director

VEG:JPA

bcc: Director's File
Central Fiels
F. C. Locher
H. E. Simmons
R. Michaels

Assembly Social Welfare Committee

State of California — Health and Welfare Agency

Memorandum

To : John C. Montgomery

cc: F. C. Locher
R. Michaels
H. E. Simmons

Date : July 31, 1967

Subject : ATD resp. relatives

From : Department of Social Welfare

Leon Lefson

The letter from Assemblyman Chappie points up a problem that has been of continuing concern to the department since relative responsibility was eliminated from the ATD program, effective January 1, 1965. Following the change in law at that time we simply removed the regulations that had been in existence until then and did not provide any further guidance to the counties on how to implement Section 13600. There is very little factual information available to indicate exactly what the impact of this change in law has been. We do know from isolated cases that a number of middle-class families have applied and are receiving assistance mostly for mentally retarded children. Frequently, the purpose is not so much to obtain a cash grant as to obtain medical eligibility and payment of tuition in a sheltered workshop. In increasing numbers of cases, however, the cash grant is becoming a factor.

During the Brown Administration the department took a firm position that any one over 21 who is unable to support himself and who in fact is not receiving adequate support from parents or other relatives should be eligible for ATD. I believe this is a sound position and that we should adhere to it. Those under 21 should be treated as minors and support from responsible relatives required unless this would be a hardship; i.e. the family is on AFDC or has a very low income. In short, for the 18 to 21 group we do need to develop some specific guides to counties in determining under what circumstances aid may be approved, although clarification of W&I Code Section 13600 would probably be desirable first.

As far as middle-class families are concerned, increasing numbers with disabled children are taking the view that the intent of the law is clear even if the wording isn't and that it is to provide a cash grant and medical care for the disabled over 21 regardless of the economic circumstances of the parents. Most counties are accepting this view which reflects that of the department until now.

To keep the whole matter in perspective we should remember that the vast bulk of ATD recipients are people over 45 who come from very deprived cultural and economic backgrounds and where the problem of relative responsibility is academic. There are some fairly affluent families, however, with mentally retarded or other kinds of disabled children that have been a long term burden to the family and where the feeling exists that state aid o ought to be available after the child reaches 21, particularly in order to qualify for medical care which is an expensive burden even to middle-class families.

As I indicated until now the department has gone along with this general concept which is reflected in the law. However, we do need further discussion of the problem and probably need to develop more specific guides for counties in evaluating the actual amount of support received from parents before ATD is approved.

LL:LO

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

RONALD REAGAN, Governor

DEPARTMENT OF SOCIAL WELFARE
2415 FIRST AVENUE, P.O. BOX 8074
SACRAMENTO 95818

July 31, 1967

Assemblyman Eugene A. Chappie, Chairman
Assembly Social Welfare Committee
Room 4014, State Capitol
Sacramento, California 95814

Dear Gene:

I am replying to the correspondence that you sent me from Assemblyman Craig Biddle and the District Attorney of Riverside County concerning relative responsibility in the program of Aid to the Disabled.

The problem of relative responsibility in the public assistance programs generally, particularly in the adult aids, has been of continuing concern for many years. Because of general public interest and pressure, relative responsibility in the OAS program has been repeatedly reduced by the Legislature in recent years to a point where there is very little of it left in that program. This has met with widespread public acceptance since it is felt that children should not be burdened with indefinite support of their aging parents. Furthermore, it is felt that the aged, having paid taxes through their adult working years are entitled to receive minimum adequate support through public assistance when they no longer have sufficient resources to maintain themselves.

In 1963, AB 59 was approved by the Legislature. This bill eliminated entirely relative responsibility in the Blind and Disabled programs. As noted by the Riverside District Attorney, Welfare and Institutions Code Section 13600 concerning the disabled program (ATD) is very explicit with respect to the general intent of the Legislature. On this basis the department eliminated any reference to responsible relatives in its regulations. Not entirely clear, however, in the law is the question of relative responsibility for minors between 18 and 21 although we believe there is no question whatever concerning those over 21

Longstanding federal and state requirements provide that eligibility for public assistance must be conditioned on an evaluation of need and resources. Section 13550 of the

W&I Code provides in part that aid may be granted only to a disabled person "who is not receiving adequate support from a husband or wife or parent or child". In our interpretation to county welfare departments we have taken the position that there must be a showing, before aid is approved, that the individual is not in fact being supported by his parents or other relatives. However, our experience indicates particularly as far as the mentally retarded are concerned, there is considerable variation in practice among the counties in applying this section of the law and perhaps more explicit guides need to be developed by the State Department of Social Welfare.

The department had given some consideration, prior to the current legislative session, to the possibility of seeking a revision of Section 13600 of the W&I Code in order to clear up the current ambiguity. However, in view of the sensitive nature of this law and the absence of sufficient reliable statewide data as to its implementation, it was decided to defer any effort to seek clarification until the necessary information was available. This matter will be given further consideration in the coming months with a view to possible recommendations for further legislative action during the 1968 session.

Sincerely yours,

John C. Montgomery
Director

bcc: Director's File
Central Files
F. C. Locher
R. Michaels
H. E. Simmons
Adult Services Div.
V. Gleason

December 6, 1967

Honorable Eugene A. Chappie, Chairman
Assembly Social Welfare Committee
Room 4014, State Capitol
Sacramento, California 95814

Dear Gene:

As noted at the recent public hearing of the Assembly Committee on Social Welfare, this department has been watching very closely the Aid to Disabled average grant problem and alternatives for corrective action.

Welfare and Institutions Code Section 13700 sets forth the procedure the State Department of Social Welfare shall follow in the event the average grant per recipient exceeds the statutory maximum. Over a period of time, this statutory maximum has been under considerable pressure, and we have no reason to believe that contrary pressures will change this trend.

Since all other alternatives should be carefully considered before payments to Aid to Disabled recipients are curtailed, we are pursuing in depth within the administration effective alternatives to such an action.

You can be assured that we will discuss this with you further within the next thirty days.

Very truly yours,
Dictated by the Writer
Signed and Forwarded in his absence
to avoid delay

John C. Montgomery
Director

bcc: F. C. Locher
V. Gleason
E. MacLatchie

JCM:mo