

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



November 26, 2001

ALL COUNTY LETTER NO. 01-82

TO: ALL COUNTY WELFARE DIRECTORS
ALL CalWORKs PROGRAM SPECIALISTS**REASON FOR THIS TRANSMITTAL**

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

SUBJECT: QUESTIONS AND ANSWERS RELATING TO THE CalWORKs REGULATIONS AND POLICIES FOR THE MAXIMUM FAMILY GRANT RULE

REFERENCE: [ALL COUNTY LETTERS \(ACL\) 97-29 AND 00-78 AND ALL COUNTY INFORMATION NOTICE \(ACIN\) I-82-00](#)

This letter transmits a series of questions and answers pertaining to the implementation of the Maximum Family Grant (MFG) rule, which became effective September 1, 1997. This letter will provide clarification on several issues raised by the counties including the implementation of the Nickols v. Saenz Court Settlement, exemptions to the MFG rule, and determining for MFG purposes when a two-month break-in-aid occurs. Additionally, a few questions and answers previously provided in ACL 97-29 will be restated as these questions continue to be asked.

If you have questions about this letter or any other issue relating to MFG policy, please contact Elizabeth Allred of the California Work Opportunity and Responsibilities to Kids (CalWORKs) Eligibility Bureau at (916) 657-3350, fax her at (916) 654-1401, or e-mail her at Elizabeth.Allred@dss.ca.gov. If you have any questions regarding timeframe requirements for implementing the Nickols settlement, please contact Paulette Stokes at (916) 654-3386 or e-mail her at Paulette.Stokes@dss.ca.gov.

Sincerely,

***Original Document Signed By
Bruce Wagstaff on 11/16/01***BRUCE WAGSTAFF
Deputy Director
Welfare to Work Divisionc: CWDA
CSAC

QUESTIONS AND ANSWERS FOR MAXIMUM FAMILY GRANT (MFG)

1. When does the MFG rule need to be applied?

When determining if the MFG rule applies after the birth of the child, the county must do all of the following:

- Confirm that the Assistance Unit (AU) was notified of the MFG rule in writing using the appropriate notice at least ten months before the birth of the child. The Nickols v Saenz Settlement Order establishes new informing requirements and two new MFG notices, CW 2102A (7/00) and CW 2102 (8/00). The CW 2102, which contains a written acknowledgment of receipt of the informing notice, is to be signed by the applicant/ recipient. The original must be maintained in the case file and a copy given to the applicant/recipient. The significant implementation dates mandated by the Nickols settlement are outlined below:
 - **On or after July 1, 2001**, the MFG rule can only be applied to the child of a minor parent, who is a dependent in his/her senior parent's case, if the AU was provided a copy of the CW 2102 or CW 2102A at least ten months before the birth of the child and at the latest redetermination ten months before the child's birth.
 - **On or after November 1, 2001**, the MFG rule only applies to AUs that are provided the CW 2102 or CW 2102A at least ten months prior to the child's birth and at the most recent redetermination.
 - **On and after November 1, 2002**, the MFG rule only applies to AUs whose case file contains a signed copy (or documentation of a refusal to sign) of the CW 2102 that was provided to the AU at application or most recent redetermination that was at least ten months before the child's birth.
- Determine if the AU had a break-in-aid for two consecutive months during the ten months before the birth of the child.
- Determine if the AU meets any exception to the MFG rule.

Nickols Issues

2. ACL 00-78 that implemented the Nickols settlement indicated that relief of the MFG rule is provided to "nested teens." What do you mean when you say "nested teens?"

In the context of the Nickols Court settlement, a "nested teen" is a minor parent aided as dependent child, rather than as a parent. This minor parent typically would have a child's person number, in those counties that make a numerical designation of the dependent child's payment status. Informing notices and notices of action (NOAs) are typically addressed to their adult payee, not to the minor parent. "Nested teens" are:

- Minor parents who are dependents (eligible children) in their senior parent's case; or
- Minor parents who reside with an appropriate caretaker relative as required by the Minor Parent requirements in Manual of Policy and Procedures (MPP) Section 89-201.1, whether or not the caretaker relative is needy.

3. **After 9/1/00, do we continue to apply the MFG rule to the child of a minor parent when the minor parent establishes their own AU (after he/she turns 18 or meets an exemption to the Minor Parent live-in rule as required by MPP Section 89-201.2)?**

No, because the Nickols settlement provides for new exemptions to the MFG rule. When a former minor parent who was aided in a CalWORKs case establishes his/her own AU, the MFG rule is no longer applied to any existing MFG child of this former minor parent. The MFG rule cannot be applied to any new child born to this former minor parent during the first ten months after establishing his/her own AU. Additionally, the MFG rule cannot be applied unless the former minor parent received a copy of the CW 2102/CW 2102A when he/she applied for aid in his/her own case. (See ACL 00-78, Page 2, for a further discussion of this requirement.)

4. **Does the Nickols settlement apply to former minor parents who established their own AU between 9/1/97 (first implementation date for application of the MFG rule) and 9/1/00 (effective date for the Nickols settlement)?**

The Nickols settlement provides that the MFG rule does not apply to any child that was born to a minor parent between 9/1/97 and 9/1/00.

5. **If the county removed the MFG grant reduction in 11/00 because of Nickols, how do we handle child support that was received by the AU for the MFG child in September? Is this child support, which was considered exempt income before 9/1/00, now counted as nonexempt income to the family?**

Yes, if the MFG rule is no longer applied, effective 9/1/00, any child support received would now be considered nonexempt income to the family.

6. **Do any of the changes required by Nickols apply to all MFG cases, not just those involving a minor parent?**

Yes, although the Nickols lawsuit primarily involved issues related to minor parents, ACL 00-78 specifies that in addition to changes to the MFG rule for minor parents, the following requirements now apply to all cases:

- Applicants and recipients must receive the CW 2102 or CW 2102A at application and redetermination, as outlined in Answer #1 above.
- A month in suspense (as defined in MPP Section 44-314.8) and/or the month(s) in which aid is not paid because of a Zero Basic Grant (ZBG) (as defined in MPP Section 44-314.9) counts as a break-in-aid for MFG purposes.
- When a child is added to the case and the MFG rule is applied, NOA messages must contain the date the recipient/applicant was informed in writing of the MFG rule.

7. **If a client was not provided a copy of the CW 2102A/CW 2102 informing notice during the statewide mass mailing in 8/00 or at intake in 11/00, can the county read the informing notice over the phone in lieu of mailing it?**

No, because the MFG rule can only be applied if the AU receives written notice of the rule at least ten months before the birth of the child (MPP Section 44-314.31).

Suspense and ZBG Issues

8. **Do we start considering suspense or ZBG months beginning in 9/00 or do we count months prior to 9/1/00?**

Only start counting suspense/ZBG months as a break-in-aid beginning with 9/00.

9. **What if a child is born 9/1/00 and the AU had a suspense month in 4/00 and a ZBG month in 5/00? Do those months count as a break-in-aid?**

No, as these months occurred prior to 9/1/00.

10. **If the grant is reduced to zero because of a penalty or an overpayment adjustment, is that month counted as a break-in-aid for MFG purposes?**

Yes, since they are listed as one of the months of ZBG (MPP Section 44-315.9), each should be counted as a break-in-aid for MFG purposes.

11. **Are the following months counted as a break-in-aid for MFG purposes: A month in which the AU only receives any special needs payment, Reduced Income Supplement Payment (RISP), or homeless assistance?**

No, since the AU actually receives a cash aid payment, these months do not count as a break-in-aid for MFG purposes.

Break-in-Aid

12. **How is the two-month break-in-aid determined when there is movement in the family, that is one or more family members leave the home for a time?**

MPP Section 44-314.34 states that the MFG rule applies when the AU has not had a break-in-aid for at least two consecutive months during the ten consecutive months immediately prior to the month of the birth of the child. The MFG rule will generally apply as long as one or more members of the family remain on aid. The MFG rule does not apply if all members of the AU are off aid for the same two consecutive month period.

The following examples will illustrate if a break-in-aid has occurred. In each example, the county has confirmed that the AU was notified in writing of the MFG rule at least ten consecutive months before the birth of the child, as required by MPP 44-314.31.

A Two-Consecutive Month Break-in-Aid Is Established.

13. **Mom was on aid with child #1 until 10/99, when case was discontinued. From 6/00-10/00, child #1 received aid with a nonneedy aunt. Mom reapplied for aid in 11/00 for self and child #1. Mom had child #2 in 3/01. Does the MFG rule apply to child #2?**

No, the second AU with mom and child #1 did not exist ten months prior to the birth of child #2. That AU (mom and child #1) did not become effective until 11/00, four months before the birth of child #2 in 3/01. Therefore, child #2 was not born into an AU that received aid for at least ten consecutive months prior to the birth of the child. The MFG rule does not apply to child #2.

The fact that child #1 was on aid with an aunt from 6/00-10/00 does not change this case. That AU (child #1 and the aunt) is not relevant, as it began after mom and child #1 established a two-month break-in-aid.

14. **Mom and dad are on aid with two children. Mom becomes pregnant in 1/00. In 3/00 the two aided children move out of the home and into Foster Care. The AU was discontinued at the end of the month. Neither parent was aided for 4/00 or 5/00. The children were returned to the home on 6/1/00; cash aid was resumed, effective 6/1/00. The mom had twins in 10/00. Is the MFG rule applied to the twins?**

No, the MFG rule does not apply to the twins because there was a two-month break-in-aid, 4/00-5/00. No member of the AU received CalWORKs for two consecutive months in the ten months prior to the birth of the twins. Foster care payments are not considered "cash aid" for purposes of determining MFG application.

15. **A mom is on aid with two aided children. She was inappropriately discontinued on 3/31/00, although she should have received aid for April and May. Mom and the kids went back on aid in June. The baby was born in 10/00. Does the MFG rule apply to this child?**

No, in this case, the recipient had a two-month break-in-aid (4/00-5/00). The MFG cannot be applied to the parent and her child for this county-caused error, even if the county restores aid for those two months.

A Two-Consecutive Month Break-in-Aid Is Not Established

16. **Mom and two children were on aid in county #1 in 5/00. The AU has been continuously on aid since 5/99. Dad took custody of the children on 6/1/00 and applied for aid in county #2 based upon absent mom. Aid was approved for father and the two children, effective 6/1/00. Mom and dad are unmarried. In 11/00, Mom joined the AU in county #2, with her eligibility effective 11/14/00. When she joined the AU, she was pregnant. Deprivation for the three children was changed to the unemployment of the father. Mom's baby was born on 3/15/01. Does the MFG rule apply?**

Yes, the AU has not demonstrated that there is a break-in-aid of two consecutive months. The children were never off aid. Mom rejoined the AU in 11/00 and was included in the AU (MPP Section 82-820.33, mandatory inclusion for a parent of recipient children). The baby was born into an AU that received aid continuously for the ten months prior to the birth (5/00).

17. **A pregnant woman has received aid for herself and two children for two years. The two children are removed from her home. Because she was in her third trimester, the woman continued to receive aid for herself (a MAP of 1) and pregnancy special needs. Does the MFG rule apply when the baby is born?**

Yes, the MFG rule applies to child #3. Mom continued to receive a MAP of 1 and special needs after the children were removed up to the time of the birth of her child. Mom has not demonstrated that she had a two continuous month break-in-aid in the ten consecutive months before the birth of the child.

EXEMPTIONS

18. **If a pregnancy occurs due to the failure of Depo-Provera, does this method of sterilization meet the MFG exemption for Contraceptive Failure (MPP Section 44-315.53)?**

Yes, Depo-Provera can be considered equivalent to Norplant for MFG purposes. This is a sterilization method by injection that is administered by a physician to prevent pregnancy. Therefore, the MFG rule will not apply when the county receives medical verification that the pregnancy occurred as the result of failure of this sterilization method.

19. **A woman on aid was sterilized. She subsequently had a child and was given an MFG exemption for a failed contraceptive. She is currently pregnant and again claiming an exemption for this second child because of the failure of the same prior sterilization. Is this second child also exempt from the MFG regulations?**

The woman must provide medical verification of her sterilization status after the birth of the first child. The MFG rule would apply if her physician informed the woman that the first sterilization had failed and she would need other birth control methods to prevent pregnancy in the future. However, the MFG rule would not apply if her physician indicated that a second sterilization or other birth control methods were not necessary to prevent future pregnancies.

OTHER RULES

20. **A mom went on aid with two children in 1997. The children's father was not in the home at the time of application. In 5/99, the father became the caretaker relative for the children when mom left the home. The county did not provide the father with a copy of the MFG informing notice when he became caretaker of the children in 5/99. In 2/00, mom resumed her duties as caretaker relative and the father left the home. When Mom left the home again in 6/00, the father applied to be caretaker for the children, with aid effective, 6/1/00. He was provided a copy of the MFG informing notice in 6/00. In 9/00, father's girlfriend who was pregnant moved into the home. The father and girlfriend's child was born on 10/28/00. Is the MFG rule applied to this child?**

No, the MFG rule would not be applied to the child of the father and the girlfriend. Neither the father nor the girlfriend had been on aid for ten months before the birth of their child. Additionally, the father had not received a copy of the informing notice at least ten months before the birth of the child._

21. **Mom was on aid with child #1; the MFG rule was applied to child #2. Mom went to jail and the non-needy grandmother received custody of the children and the MFG rule was removed from child #2. When mom was released from jail, mom did not regain custody of her children, but the**

court gave her permission to live in the home. Since mom is not the caretaker relative of her children, is the MFG rule reapplied now that mom has returned home?

Yes, the MFG rule is applied when mom rejoins the AU as the child is living with a parent. MPP Section 44-314.55 indicates that the MFG exemption only applies if the child "is not living with either parent." Application of the MFG rule is not dependent upon mom being the caretaker relative for her children.

22. What documentation is required to establish that the AU was properly notified of the MFG requirements when the AU was informed in a different county?

If the case file includes a CW 2102 with a signed acknowledgment or the annotation of refusal to sign, county #1 shall send a copy of the form to the receiving county. If informing was done using the CW 2101A or the TEMP 2102, which do not contain a signed acknowledgment, county #1 shall provide county #2 with the date the AU was notified and the specific informing document that was provided to the AU, i.e. the TEMP 2102 or CW 2102A. These procedures should be followed for all Inter-County Transfer cases as well as cases in which the children move from one parent to another when the parents live in different counties.

23. A child was born into an existing AU in county #1 where mom was on aid for more than ten months prior to the birth of the child. The MFG rule was applied to the child. The child now lives with her father in county #2. Does the MFG rule still apply? Also, what if the father was not previously on aid and had not been notified of the MFG rule?

Yes, the MFG rule would be applied if county #2 can document that the AU (mom) was appropriately notified of the MFG rule based on information from county #1, even if the other parent (father) was not an AU member when the written notice was sent to the AU. The MFG rule applies because the child was born into an AU that had been receiving aid for the ten months prior to the birth of the child. When the child went to live with the father, the MFG rule continues to apply.

24. Can the MFG rule be applied to the child born to an excluded parent, i.e. an undocumented alien or a State Supplemental Security Income (SSI) recipient?

Yes, MPP Section 44-314.14 specifies that the MFG rule is applied to parents who received aid on behalf of his/her children, even if they do not receive aid for themselves. Therefore, the MFG rule applies to the child of a parent receiving SSI or an undocumented parent if the child is a citizen.

25. Does the MFG rule apply to the child of an unaided minor parent who receives SSI or who is undocumented? The senior parents have received cash aid for themselves and two other eligible children in the home.

No, the MFG rule does not apply to the child of a minor parent who was unaided, even if his/her senior parents and/or siblings have been on aid for at least ten months before the baby was born. The MFG rule would apply if the minor parent received aid for another child.

26. A family received aid in another state from 10/99 to 6/00. They moved to California and went on cash aid, effective 8/1/00. The mother was pregnant when she moved to California. A child was born in 2/01. Does the MFG rule apply?

No, because a month on aid in another state is never considered when counting the ten consecutive months on aid (MPP Section 44-314.14).

27. **An applicant mom became pregnant in the month of application (2/00), the month in which she was provided the informing notice. Due date was 11/28/00. The baby was born prematurely on 10/20/00. Do we apply the MFG rule by the letter of the law (10 months after receipt of written notification of the MFG rule) or the intent of the law (not to increase the MAP while a recipient is getting cash aid).**

The MFG rule is applied by the letter of the law. Both the statute and regulations specify that the client must have received written notice of the MFG rule at least 10 months before the birth of the child. In this case, the child was born prematurely in the 8th month. The MFG rule cannot be applied to this child.

28. **How is “the ten consecutive months prior to birth” determined for MFG purposes?**

To apply MFG, count backward ten months starting with the month before the child's birth. For example, if the child was born in 01/01, begin counting backwards from 12/00, the month before the child's birthdate. The 10th month would be 3/00.

29. **Is the month of application counted as a month in which aid was received?**

Yes, a partial month (month of application) does count as a month in which aid was received. (MPP 44-314.31 and 44-314.32).

30. **Is the MFG child considered a recipient of CalWORKs?**

An MFG child is considered eligible for, and a recipient, of CalWORKs. However, the family's MAP is not increased. The child is included in the Maximum Basic Standard of Care (MBSAC) for determining applicant financial eligibility. The MFG child is also considered eligible for special needs, including temporary shelter payments for homeless assistance. In addition, the MFG child is considered eligible for Public Assistance Food Stamps, childcare and cash-based Medi-Cal. However, benefits that are derived from the MAP, such as Reduced Income Special Payment and permanent shelter payments for homeless assistance will not include the MFG child.