

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



May 26, 1987

ALL COUNTY LETTER NO. 87-76

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: IMPLEMENTATION OF THE FEDERAL LEAST COSTLY REGULATIONS
(AFDC, RCA, ECA, AND RDP)

REFERENCE:

On June 1, 1987, final AFDC regulations (ORD No. 0986-43) will take effect implementing the provisions of the Final Federal Least Costly Regulations published March 18, 1986 in the Federal Register. The two significant changes in this regulation package are:

1. Deletion of the \$60 income exemption for casual income and income from an inconsequential resource. Now, only the first \$30 of cash income from small gifts received by each member of the assistance unit during any calendar quarter is exempt as income:
2. Income shall no longer be allocated to meet the needs of any person who is required to be included in the filing unit and has been sanctioned or who has failed to cooperate in meeting a condition of eligibility.

\$30 INCOME EXEMPTION FOR SMALL CASH GIFTS (MPP 44-111.44)

Currently, the first \$60 per quarter of income identified as casual income and income from an inconsequential resource is exempt from consideration as income. This exemption has been deleted from the regulation. The new regulations also delete the reference to inconsequential income from MPP 44-115.61 (Evaluation of Income In Kind).

The new regulations specifically exempt only the first \$30 of cash income from small, nonrecurring gifts (such as gifts for birthdays, Christmas and graduation) which is received by each member of the assistance unit during any calendar quarter. The new regulations define a calendar quarter as three consecutive calendar months. The calendar quarters commence with January, April, July and October.

A cash gift which is intended for one person in the assistance unit will be treated as that person's gift. A cash gift to the entire assistance unit will be divided equally between the members of the assistance unit. If the gift is received by one member of the assistance unit, but the evidence clearly indicates it was intended for the entire assistance unit, the cash gift will be divided equally between the assistance unit members. However, if the evidence indicates the cash gift is intended to be divided unequally between the members of the assistance unit, the cash gift will be divided in accordance with the evidence.

ALLOCATION OF INCOME TO MEET THE NEEDS OF EXCLUDED PERSONS

Currently the regulations allow income to be allocated to meet the needs of certain persons excluded from the assistance unit, even when these persons are excluded because they have been sanctioned or have failed to cooperate in meeting a condition of eligibility. The new regulations will no longer allow income to be allocated to meet the needs of persons who are excluded from the assistance unit for these reasons.

With the new regulations, a sanction or failure to cooperate in meeting a condition of eligibility includes, but is not limited to:

- 1) Failing to register for EDD JS or refusing, without good cause, to participate in WIN DEMO, EDD JS or GAIN;
- 2) Refusing to furnish or cooperate in securing a Social Security number for himself/herself;
- 3) Refusing to assign rights to child and spousal support payments;
- 4) Refusing to cooperate in the identification and location of an absent parent, establishment of paternity, and enforcement of child support obligation, without a showing of good cause;
- 5) Refusing to take actions necessary to obtain unconditionally available income.

Income received on or after June 1, 1987 must be treated in accordance with the new rules. When computing the income of an excluded person in accordance with MPP 44-133.3, the income will not be allocated to meet the needs of the person excluded due to sanction or failure to cooperate in meeting a condition of eligibility (i.e., deemed income computations will not include the MAP differential for that person). Also, this person's income shall be allocated to the assistance unit without application of earned income disregards. (MPP 44-133.32)

Also, the needs of persons excluded from the assistance unit under these circumstances will not be included in either the stepparent or senior parent computations (MPP 44-133.6 and 44-133.7).

Attached is a copy of the new regulations.

Notice of Action message language applicable to the new regulations is currently being developed and will be forthcoming.

If you have any questions regarding this letter, please contact Jim Mullany of the AFDC and Food Stamp Policy Implementation Bureau at (916) 324-2661 or ATSS 454-2661.


 ROBERT A. HOREL
 Deputy Director

cc: CWDA

Attachments

*4 Casual Income and Income From an Inconsequential Resource

*41 Casual income and inconsequential assistance is income in cash or in kind which is: (1) unpredictable as to amount and time of receipt; (2) of short duration; and (3) by itself of negligible importance in meeting continuing needs under the appropriate aid standards.

*42 Income from an inconsequential resource is the net return from an interest in real or personal property which by itself makes no appreciable contribution to the continuing needs of a recipient under the aid standards.

The following examples illustrate some types of income which usually are considered casual income or income from an inconsequential resource:

- a. Income from occasional labor and services of a temporary nature and which offer no security as a regular source of maintenance.
- b. Income from occasional sale of products or resulting from work engaged in wholly or primarily for its therapeutic value, such as knitting, art work, cabinet work, etc.
- c. Income from occasional rental of a room which is not ordinarily advertised or listed for rent and which is rented for a short period only.
- d. The value of the usual small gifts in cash or in kind given in commemoration of holidays and anniversaries or a gift in kind earmarked for a specific purpose and not useful for meeting the continuing needs of the recipient, such as a gift of a ticket for a trip. Gifts of personal property such as a radio, refrigerator, etc.
- e. Returns from home produce from garden, orchard, farm livestock, poultry, firewood, etc., which is sold or exchanged.
- f. Interest on securities which have no appreciable significance in meeting continuing needs.

- g. Results of occasional barter transactions, such as the exchange of wood produced on the recipient's property for work on the road leading to his house.
- h. Dues and membership fees in benevolent, fraternal, or other nonprofit organizations which are assumed by the organization or by another person on behalf of the recipient.
- i. Emergency relief granted a recipient who has lost or spent his grant.

Authority Cited: Sections 10553, 10554, and 10604(b), Welfare and Institutions Code.

Reference: Section 11018, Welfare and Institutions Code.

Amend MPP 44-111.44 to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION AS INCOME (Continued) 44-111

•4 Exclusions or Exemptions of Other Payments and Income (Continued)

•44 Casual Income and Income from and Inconsequential Resource Small Nonrecurring Gifts

•441 The first Sixty Dollars (\$60) per quarter of casual income and income from an inconsequential resource which is received infrequently or irregularly is considered exempt from consideration as income. The first \$30 of cash income from small nonrecurring gifts, such as those for Christmas, birthdays, and graduation, which is received by each member of the assistance unit during any calendar quarter shall be exempt from consideration as income. (See Section 44-101.44) A calendar quarter is three consecutive calendar months commencing with the first day of the first month and ending with the last day of the third month. The first month for each of the four quarters shall be January, April, July, and October.

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EXAMPLE: The recipient receives \$35 in cash for a birthday gift in a given quarter.

DISCUSSION: The first \$30 of the gift is exempt.

EXAMPLE: The recipient receives \$20 in cash for a birthday gift and, in the same quarter, receives \$20 for a graduation gift.

DISCUSSION: The first \$20 gift is exempt; \$10 of the second gift is exempt, for a total exemption of \$30.

Authority Cited: Sections 10553, 10554, and 10604(b), Welfare and Institutions Code.

Reference: Section 11018, Welfare and Institutions Code;
45 CFR Section 233.20(a)(3)(iv)(F).

Amend and renumber MPP 44-115.6 and renumber subsections .7 and .8 to read:

44-115 EVALUATION OF INCOME IN KIND

44-115

When a need item is earned or contributed in kind, the income value placed upon such earnings, contributions, etc., is the amount specified below.

.61 Free Board and Lodging Received During Temporary Absence from Home

.611 Absence One Month or Less

The value of free board and lodging received by a recipient during a temporary absence from his home of not more than one calendar month shall be exempt, considered inconsequential. (See Regulations ~~44-101.4~~ and ~~44-111.44~~)

.612 (Continued)

.63 Definition of "One Month"

For purposes of this section, one month is considered to be 30 calendar days, starting with the first full day of absence from the home.

.72 (Continued)

.721 (Continued)

.722 (Continued)

.83 (Continued)

.831 (Continued)

.8311 (Continued)

.832 (Continued)

.833 (Continued)

.8331 (Continued)

.8332 (Continued)

.8333 (Continued)

Authority Cited: Sections 10553, 10554, and 10604(b), Welfare
and Institutions Code.

Reference: Section 11018, Welfare and Institutions Code;
Section 11349(c), Government Code.

Amend MPP 44-133.31 to read:

44-133 TREATMENT OF INCOME -- (Continued)

44-133

.3 Income in Cases in Which a Parent or Child has been Excluded from the Assistance Unit

.31 Income shall not be allocated to meet the needs of any parent or child who is required to be included in the filing unit and has been sanctioned or who has failed to cooperate in meeting a condition of eligibility. Actions which are subject to sanction or which constitute a failure to cooperate include, but are not limited to, any one of the following:

(a) Failing to register for WIN DEMO, JS, GAIN, or refusing, without cause, to participate in the programs [HANDBOOK: (see Section 41-440.2, 42-625, and 42-786, respectively)];

(b) Refusing to furnish or cooperate in securing a social security number for himself/herself [HANDBOOK: (see Section 40-105.2)];

(c) Refusing to assign rights to child and spousal support payments [HANDBOOK: (see Section 43-106.1)];

(d) Refusing to cooperate in the identification and location of the absent parent, establishment of paternity, and enforcement of child support obligation, without a showing of good cause [HANDBOOK: (see Section 43-107.47)];

(e) Refusing to take actions necessary to obtain unconditionally available income [HANDBOOK: (see Section 44-103.212)].

.32 Income of the parent or child who is excluded from the assistance unit pursuant to the provisions of Section 44-133.31 shall be allocated to the assistance unit without the application of earned income disregards or consideration of his/her own needs. [HANDBOOK: (See Section 44-113.2 for earned income disregards.)]

.3+3 If a parent or child living in the home is required to apply for aid under Section 40-118 and but is excluded from the assistance unit for reasons other than the provisions of Sections 44-133.31, being a recipient of

another aid program, or a member of a different assistance unit, a portion of his/her income is income to the assistance unit. This portion is determined as follows:

- 31131 Determine the parent or child's net nonexempt income according to Chapter 44-100. Allow disregards in Section 44-113 except the \$30 and 1/3 or, as applicable, the \$30 disregard.
- 31232 Subtract the maximum aid for the number of persons in the assistance unit, excluding the parent or child, from the maximum aid for the persons in the assistance unit, including the parent or child. To this difference add any allowable recurring special needs for the excluded parent or child if such needs are verified. The maximum amount allowed for recurring special needs for the excluded parent or child shall not exceed \$10. This subsection does not apply when an excluded parent or child is included in a stepparent unit (see 44-133.6) or in a senior parent unit (see 44-133.7).
- 31333 Subtract the figure determined in 31232 from income determined in 31131 above. The remaining amount is income to the assistance unit.

Example: A parent with earned income is excluded from the assistance unit which consists of three children. Monthly gross earned income is \$350. Assume MAP for 3 is \$506 and MAP for 4 is \$601.

Gross Income	\$350
Standard Work Expense Disregard (See Section 44-113.214)	<u>- 75</u>
Net Income	\$275

MAP for 4	\$601 *
MAP for 3	<u>-506 *</u>
MAP Differential	\$ 95
Verified Special Needs	<u>+ 9</u>
	\$104

Net Income	\$275
MAP Differential + Verified Special Needs	<u>-104</u>
Income to the Assistance Unit	\$171

MAP for 3	\$506 *
Income to the Assistance Unit	<u>-171</u>
Grant	\$335

*MAP amounts are subject to change. Use currently applicable amounts specified in 44-315.411.

NEW
HANDBOOK

.334	The <u>Simon v. McMahon</u> court order prohibits the counting of income and property of a child when the family chooses to exclude the child from the assistance unit. (See Section 40-118.111 and ACL 86-04.)
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Authority Cited: Sections 10553, 10554, and 10604(b), Welfare and Institutions Code.

Reference: Section 11008.14, Welfare and Institutions Code; 45 CFR Section 233.20(a)(3)(ii)(C).

Amend MPP 44-133.6 and .61 to read:

44-133 TREATMENT OF INCOME -- AFDC (Continued)

44-133

.6 Income In Cases Where A Stepparent Resides In The Home

Regulations concerning income to the FAB assistance unit from a stepparent (see .63 below) apply only when the stepparent resides in the same household with the aided children or unaided unborn (See Section 44-205.256) and their parent but neither the stepparent nor any of his/her natural or adoptive children are in the Family Budget Unit (FBU) assistance unit.

Note: When the stepparent is included in the FBU assistance unit (see Sections 44-203 and 44-205), the total amount of his/her net nonexempt income shall be income to the FBU assistance unit for purposes of grant and eligibility computation.

When the stepparent is not included in the FBU assistance unit but one or more of his/her children is in the FBU assistance unit, the stepparent is an excluded parent. See EAS 44-133.3 for treatment of his/her income.

.61 Definition of Stepparent Unit

The stepparent, his/her spouse, his/her separate children and the children he/she has in common with his/her spouse, and any other persons residing in the home who may be claimed by the stepparent as dependents for federal income tax purposes are members of the Stepparent Unit when they are not in the FBU assistance unit. However, the Stepparent Unit shall not include any individual who has been excluded from the assistance unit pursuant to the provisions of Section 44-133.31.

Authority Cited: Sections 10553, 10554, and 10604(b), Welfare and Institutions Code.

Reference: Section 11008.14, Welfare and Institutions Code; 45 CFR Section 233.20(a)(3)(xiv).

Amend MPP 44-133.714 to read:

44-133 TREATMENT OF INCOME -- AFDC (Continued)

44-133

.7 Income in Cases Where the Senior Parents or Legal Guardians Reside in the Home with a Minor Parent.

.71 Definitions (Continued)

.714 A Senior Parent Unit consists of the senior parent or legal guardian, his/her spouse, his/her children and any other persons residing in the home who may be claimed by the senior parent or legal guardian as dependents for federal income tax purposes when they are not in the assistance unit. However, the Senior Parent Unit shall not include any individual who has been excluded from the assistance unit pursuant to the provisions of Section 44-133.31. When the minor parent is excluded from the assistance unit for reasons other than being an SSI/SSP recipient, or being excluded pursuant to the provisions of Section 44-133.31, the minor parent shall be a member of the Senior Parent Unit.

Authority Cited: Sections 10553, 10554, and 10604(b), Welfare and Institutions Code.

Reference: Section 11008.14, Welfare and Institutions Code; 45 CFR Section 233.20(a)(3)(xviii); 45 CFR 233.20(a)(3)(xiv).