

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



October 31, 1989

ALL-COUNTY LETTER NO. 89-95

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY GAIN COORDINATORS

SUBJECT: GAIN POLICY QUESTIONS AND ANSWERS REGARDING
IMPLEMENTATION OF THE FEDERAL JOB OPPORTUNITIES AND
BASIC SKILLS (JOBS) TRAINING PROGRAM REQUIREMENTS

REFERENCE: ALL-COUNTY LETTER (ACL) 89-74

This is the second in a series of policy question and answer ACLs to be issued regarding the changes in the Greater Avenues for Independence (GAIN) Program due to the implementation of JOBS on July 1, 1989.

This letter confirms the additional answers provided to you by your GAIN Program analyst subsequent to the issuance of the first policy questions and answers letter, ACL No. 89-74, and provides answers to some new questions as well. We will continue to provide follow-up question and answer letters as additional policy decisions are reached.

Counties are requested to pay particular attention to Sanction Questions 3 and 4 on pages 4 through 6 of the attachment.

As mentioned in ACL 89-74, questions related to fiscal, statistical reporting, or County approval issues should continue to be addressed to the contact persons noted in that ACL. If you have questions regarding this letter, please call your GAIN and Employment Services Operations analyst at (916) 324-6962.

A handwritten signature in dark ink, appearing to read 'D. J. Boyle'.

DENNIS J. BOYLE
Deputy Director

Attachment

cc: CWDA

MPP 42-730.27 - Time Limitation on Job Search

1. Q. For purposes of tracking the 16-week time limitation on job search, how is the term "week" defined?
 - A. A week is defined as five days. Job search activities are limited to the equivalent of 16 weeks within a 12-consecutive-month period; this amounts to a maximum of 80 days (16 weeks x 5 days = 80 days). Counties may track the time in whatever time increments they deem appropriate (e.g., hours, days or weeks) as long as it can be demonstrated that the case has not exceeded the equivalent of 16 weeks overall.
2. Q. If employment skills marketing activities such as job development or job placement are part of the education/training provider's curriculum or training package and the participant's activity agreement is for training or education, do these activities have to be tracked for the job search limit?
 - A. No, they do not.
3. Q. Does employment seeking activity by the participant during a PREP assignment as specified in Sections 42-730.325 and .326 have to be tracked?
 - A. No, it does not.
4. Q. When does the second and subsequent 12-consecutive-month period begin; i.e., does it begin immediately upon completion of the first 12 months, or upon the next entry into a job search activity after the first 12 months are completed?
 - A. The second and subsequent 12-consecutive-month periods begin immediately upon completion of the previous 12-consecutive-month period. This clarification is being included in the post-hearing final JOBS regulation package to be filed with the Office of Administrative Law.

MPP 42-772.7 - Participation of Custodial Parents Under Age 20

1. Q. Can second parents who are under age 20 and who do not have a high school diploma or equivalent be deferred under the second parent deferral?
 - A. Yes, any mandatory registrant can be deferred if he/she meets the deferral criteria.

MPP 42-772.7 - Participation of Custodial Parents Under Age 20
(continued)

2. Q. Are 18 year old custodial parents who are in school full-time exempt or mandatory?
- A. These parents would be exempt due to being age 16, 17 or 18 and in school (not college) full-time as specified in MPP 42-790.1.

MPP 42-786 - Financial Sanctions

1. Q. Can an individual agree to participate during the financial sanction timely notice period and cure the sanction before it begins?
- A. At the point the sanction Notice of Action (NOA) is sent, conciliation efforts have failed and financial sanctions must be applied. However, if the sanction is imposed as a result of a first instance of non-compliance, the individual can agree to participate and cure the sanction at any time, including during the timely notice period.

If the sanction is imposed as a result of a second or subsequent instance of non-compliance, the sanction must last a minimum of three months (if a second instance) or six months (if a third or subsequent instance). Therefore, the sanction cannot be cured during the timely notice period. For these clients, the only recourse available after the sanction NOA has been sent is to request a State hearing within the 10-day timely notice period. If this is done, the sanction is not imposed pending the outcome of the hearing (MPP 42-786.41).

2. Q. Please explain how financial sanctions are to be applied.
- A. The number of instances of non-compliance without good cause determines which financial sanction is applied.
- o The first instance of non-compliance without good cause results in the sanction which is curable at any time (MPP 42-786.21).
 - o The second instance of non-compliance without good cause results in the sanction which is curable after three months, regardless of whether the first sanction was actually imposed. That is, this sanction is imposed even if the individual successfully conciliates the first instance of non-compliance (MPP 42-786.22).

MPP 42-786 - Financial Sanctions (continued)

- o The third or subsequent instance of non-compliance without good cause results in the sanction which is curable after six months, regardless of whether previous sanctions were imposed. That is, this sanction is imposed even if the individual has successfully conciliated previous instances of non-compliance (MPP 42-786.23).

Example 1: A client is determined to have a first instance of non-compliance without good cause, informal and formal conciliation are unsuccessful and a financial sanction is imposed. The appropriate sanction is the sanction which is curable at any time, because this is the client's first instance of non-compliance without good cause.

During the timely notice period, the client agrees to cooperate and resumes participation, thus stopping the sanction before it is imposed. However, at a later date, the client is determined to have a second instance of non-compliance without good cause; again, informal and formal conciliation are unsuccessful and a financial sanction is imposed. The appropriate sanction is the sanction which is curable after three months, because this is the client's second instance of non-compliance without good cause.

Example 2: A client is determined to have a first instance of non-compliance without good cause; informal conciliation is not successful, and the client enters the formal conciliation period. During this period, the client agrees to cooperate and resumes participation. A financial sanction is not imposed.

At a later date, the client is determined to have a second instance of non-compliance without good cause. This time, both informal and formal conciliation are unsuccessful and a financial sanction is imposed. The appropriate sanction is the sanction which is curable after three months, because this is the client's second instance of non-compliance without good cause, even though the first instance of non-compliance was successfully conciliated.

3. Q. Has there been a policy change regarding how to count instances of non-compliance that occurred prior to July 1, 1989?

MPP 42-786 - Financial Sanctions (continued)

- A. Yes. The policy has been that when determining the appropriate sanction to impose after July 1, instances of non-compliance without good cause which occurred prior to July 1 were to be considered. For example, if an individual had an instance of non-compliance without good cause before July 1 and another after July 1, the appropriate sanction would have been the minimum three month sanction, as this would have been considered the individual's second instance of non-compliance.

However, at the last CWDA GAIN Committee meeting, Counties expressed concerns with this policy. Also, we have recently received an interpretation of federal law from the Department of Health and Human Services that contradicts the policy.

Therefore, the new policy is that when determining the appropriate financial sanction to apply after July 1, do not count instances of non-compliance which occurred before July 1. This means that the first time an individual is subject to a financial sanction after July 1, the appropriate sanction is the one which is curable at any time, regardless of the number of instances of non-compliance without good cause which occurred before July 1.

If an instance of non-compliance without good cause occurred before July 1 but conciliation continued past July 1, the appropriate sanction would be the financial sanction which is curable at any time. The next time the individual is subject to a sanction, it would be considered the first instance of non-compliance since the instance which occurred prior to July 1 is not to be counted. **Consequently, the appropriate sanction would be the financial sanction which is curable at any time.**

Example: On June 15, an individual is determined to have a second instance of non-compliance without good cause; the formal conciliation period ends July 19. The individual does not conciliate and a sanction is imposed effective August 1. The appropriate sanction to impose is the sanction which is curable at any time. Upon the completion of this sanction, this instance is no longer considered. The next instance of non-compliance without good cause for this individual would be considered the first instance, subject to the sanction which is curable at any time.

MPP 42-786 - Financial Sanctions (continued)

4. Q. What actions should Counties take for those individuals who have been sanctioned under the previous policy?
- A. Counties must send a notice to those individuals who are currently in a minimum three or six month sanction which was imposed under the previous policy. Individuals who have recently received a sanction notice of action (NOA), but whose sanctions have not yet begun, are included in this group. This notice must inform these individuals that they may now cure their sanctions. It must also state that if they contact the County within 10 calendar days of the date of the notice to indicate their intent to cure the sanction, and subsequently sign an activity agreement, their discontinuance of aid will be rescinded retroactive to the effective date of the sanction.

For those individuals who received a minimum three or six month sanction under the previous policy and who have already cured that sanction, Counties must send them a notice which informs them that their discontinuance of aid is being rescinded retroactive to the effective date of the sanction. This means that the County is to automatically reinstate aid for the sanction period; the client is not required to request this reinstatement.

Counties are required to notify only those individuals who are affected by this policy change. Language for the required notices is being developed and will be transmitted to the Counties as soon as possible.

5. Q. In a non-statutory reduction County, what is the appropriate sanction for a volunteer who is a member of a target group?
- A. The appropriate sanction would be exclusion from GAIN for six months (MPP 42-786.72).

Registration Status of New Mandatory Registrants

1. Q. What is the status of new mandatory registrants who "volunteer" to participate between July 1989 and January 1990?
- A. New mandatory registrants who choose to enter the program prior to their required phase-in date are mandatory participants and are subject to financial sanctions.