

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



November 22, 1991

ALL COUNTY LETTER NO. 91-119

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: QUESTIONS AND ANSWERS - ASSISTANCE UNIT REGULATION
SIMPLIFICATION AND VALIDATION PROJECT (AU RSVP)
REGULATIONSREFERENCE: ACL #91-76 (IMPLEMENTATION OF AU RSVP REGULATIONS)
ACIN I-09-89 (AFDC IRCA UPDATE)
MPP 40-118 (FILING UNIT)
MPP 44-200 (AU COMPOSITION AND NEED)
MPP 80-300 (DEFINITIONS)
MPP 80-310 (DEFINITIONS - FORMS)
MPP 82-800 (ASSISTANCE UNIT)
MPP 88-400 (STATE-ONLY AFDC)

The purpose of this letter is to provide answers to questions posed by County Welfare Department staff regarding implementation of the Assistance Unit Regulation Simplification and Validation Project (AU RSVP) regulations which were effective October 1, 1991.

The AU RSVP regulations do not affect the Foster Care Program regulations in Division 45.

Effective with the receipt of this letter, two sections (STATE-ONLY AFDC BENEFITS and AFDC-FG PREGNANT-WOMAN-ONLY AU) on Page 3 of All County Information Notice I-09-89 dated February 3, 1989 (AFDC IRCA UPDATE) are superseded because they are no longer applicable. See Question and Answer #5 on Page 8 of this ACL for more information.

If you have any questions or need further information regarding the regulations, please contact LeAnne Torres of the Welfare Policy Implementation Bureau at (916) 654-1047 or CALDEX 464-1047. Questions regarding Notices of Action messages should be directed to John Honeycutt of WPIB at (916) 654-1077. For fiscal claiming questions, please contact Sharan Fleming of the Fiscal Policy and Procedures Bureau at (916) 654-1052.


for ROBERT A. HOREL
Deputy Director

Attachment

cc: CWDA

A: No. The child in common is the only person in the AU affected by the father's return to the home. The child in common remains eligible for the entire month of October if he/she was eligible on the first. The father must be unemployed at least 30 calendar days before the child is eligible for aid based on unemployment. The father's 30-day waiting period begins November 1 and ends November 30. Therefore, the child and father are potentially eligible December 1. The child is eligible for aid in November under the readjustment period (MPP Section 41-405.2).

(See Q/A #3 for specific treatment of income and resources.)

3. Q: How are the INCOME and RESOURCES of a person treated when that person joins the home?

A: 1) If the person is required to be included in an existing AU, his/her income is counted as of the month the person joins the home IF (1) he/she has been or will be added to the AU and (2) the income has not been counted in a previous grant computation. Resources for mandatory persons are counted as of the first of each month. (See EXAMPLE #1 above.)

2) If a person is required to be included in the AU, but has not yet been added, his/her income and resources are treated as income and resources of an excluded person (MPP 44-133.3 and 42-200). (See EXAMPLE #2 above.)

3) If a person is not required to be included in the AU (i.e., an optional person), his/her income and resources are not counted until that person joins the AU unless that person is (1) contributing a complete item of need (e.g. owns the home in which the AU members are living), (2) contributing cash to the AU, or (3) a stepparent. If the person is a stepparent, the income and resources are treated in accordance with MPP 44-133.6, 42-213.11e and 42-213.2p respectively.

4. S: The unmarried father of the child in common returns to the home, but the County is not notified of his return. He is required by the new mandatory inclusion rule to be included in the AU. The County DISCOVERS NOW that the father has been in the home for several months.

Q: With the new mandatory inclusion rule, what is the BDOA for the father?

A: When the client has not met his/her reporting responsibility, the BDOA for the father cannot precede the date the County discovers him in the home. The father is required to be in the filing unit effective the day he enters the home. However, the County CANNOT add him to an AU prior to the County's becoming aware of his presence. The father's BDOA would be the date of request to add him to the AU (JA 2 or CA 8), or the date all eligibility conditions are met, whichever is later. The County would need to make an assessment of any overpayments which may have occurred prior to adding the father to the AU.

CARETAKER RELATIVE (MPP Section 82-808)

1. Q: The new regulations state that if a child has been relinquished or adopted or if parental rights have been terminated, the caretaker relative (CR) can be any of the relatives listed in Section 82-808.11. Does this mean that if a child is adopted, the biological parent is still responsible for child support, establishing deprivation, etc.? Who has legal responsibility for this child?

A: Once the child has been relinquished or parental rights have been terminated, MPP Section 82-808.12 allows the birth OR adopted relatives to be the child's relative for purposes of establishing CR ONLY (see definition of a parent in MPP Section 80-301). The CR, if needy, may be included in the AU. Once the parental rights have been terminated or the child has been relinquished, the biological parents are not legally responsible for child support purposes, establishing deprivation, etc. Once the child is adopted, the adoptive parent(s) are legally responsible.

DECLINING ASSISTANCE (MPP Section 82-820.5)

1. Q: Prior to the repeal of declining aid regulations, minor parents and senior parents could decline aid and be in the senior parent unit or stepparent unit respectively rather than in the AU (MPP 44-133.6 and .7). Is this still an option?

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A: No. A minor parent will no longer have the option of declining aid and going into the senior parent unit. A senior parent will no longer have the option of declining aid and going into the stepparent unit if the senior parent is required to be included in the AU.

(See Page 9 for specific SENIOR PARENT, MINOR PARENT situation.)

ESSENTIAL PERSONS (MPP Section 82-828.2)

1. Q: Is a stepparent who is full-time employed now eligible for aid as an essential person?
 A: Yes, if otherwise eligible (e.g. income and resource eligible). The stepparent no longer has to be unemployed in order to be aided.
2. Q: The proposed regulations which were taken to public hearing required the stepparent to provide child care or care to a family member in order to be considered an essential person. Is this still a requirement?
 A: No. The requirement that a stepparent must provide a service in order to be considered an essential person has been deleted.
3. Q: If an Alternately Sentenced Parent (ASP) has income (e.g. Social Security), but wishes to be excluded from the AU, how is his/her income treated?
 A: An ASP who is not in the AU is considered an excluded parent and subject to the excluded persons regulations (MPP 44-133.3).

FILING UNIT (MPP Section 40-118)

THE SITUATIONS IN QUESTIONS #1 THROUGH #3 RELATE TO AN APPLICANT WHO REFUSES TO INCLUDE ONE OF THE PERSONS LISTED IN MPP SECTION 40-118.1 ON THE STATEMENT OF FACTS

1. Q: Since Section 40-118.41 states that the application, etc. shall be denied in the above situation, does this mean that everyone is ineligible if the applicant refuses to include the senior parent on the CA 23?

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- A: Yes. Eligibility must be determined for each mandatorily included person. If one of the persons listed in MPP Section 40-118.1 refuses to provide information, then the County will not be able to determine eligibility for everyone and the entire AU is ineligible.
2. Q: If client refuses in September to include a person on the Statement of Facts, does the County have to wait until October 1 to discontinue the AU, since the regulations are effective that date?
- A: Yes, unless that person is required by the existing MPP Section 40-118 to be in the AU.
3. Q: MPP Section 40-118.3 states that when a child is relinquished, etc., the relatives of the child are not required to be included on the Statement of Facts. Then who must be included? Who is responsible?
- A: Only the child is required to be on the Statement of Facts. Once the child has been relinquished or parental rights have been terminated, the child no longer has relatives who are legally responsible for him/her until the child is adopted.

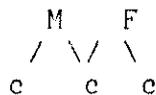
INSTITUTIONAL STATUS (MPP Section 82-812.5)

1. Q: For purposes of determining eligibility if a person is in an institution, does it make a difference whether (a) the institution is public or private; (b) the institution is a medical or nonmedical facility; or (c) the inmate is a child or an adult?
- A: A person is ineligible if he/she is an INMATE (child or adult) in a medical or nonmedical PUBLIC institution and is not a patient (e.g. cannot leave the facility). Also, a CHILD becomes ineligible for aid on the first of the month after he/she has been in a PUBLIC HOSPITAL for TWO FULL CALENDAR MONTHS. If a child or adult is in a private hospital or institution, he/she could be aided if otherwise eligible.
2. Q: If a person is found ineligible for aid because he/she is in an institution, what is the effective date of the discontinuance?

3. Q: If a child is living with his/her parent, who is an inmate in an institution, is that child precluded from receiving AFDC?
- A: No. That child can receive AFDC based on the continued absence of the second parent if otherwise eligible as long as it is clear that the parent is the person who was placed in the institution and not the child. The institution is considered the child's home as long as the child is living with the parent. (See ACIN I-48-83 dated April 8, 1983 regarding Community Prisoner Mother Program)
4. Q: In the above situation, does the County have to determine income in kind for the child?
- A: The County would determine income in kind for the child IF the institution is providing a full item of need for that child.

MANDATORY INCLUSION (MPP Section 82-820.3)

THE SITUATIONS IN QUESTIONS #1 AND #2 HAVE A MOTHER AND FATHER WITH SEPARATE CHILDREN AND A CHILD IN COMMON



1. Q: If the parents do not request aid for that common child, can the child be excluded from the AU?
- A: No. With mandatory inclusion, the AU MUST include every eligible sibling and half-sibling or everyone is ineligible.
2. Q: If the parents refuse to obtain a Social Security Number (SSN) for the common child, is everyone ineligible?
- A: No, only the child is ineligible (MPP 40-125.23). The new mandatory inclusion rule requires that an application be made for all persons required to be included in the AU. These persons must be included on the applicable Statement of Facts. However, each person must still be determined eligible.
3. Q: If the father refuses to obtain an SSN for himself, is everyone ineligible?
- A: No. Only the father is ineligible. However, his income and resources are subject to MPP Sections 44-100 and 42-200 respectively. In addition, no income shall be allocated to meet his needs (MPP 44-133.31(b)).

THE SITUATIONS IN QUESTIONS #3 AND #4 HAVE AN UNMARRIED FATHER,
A CHILD IN COMMON, A MOTHER AND HER SEPARATE CHILD.

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3. Q: If the unmarried father works less than 100 hours per month, which results in deprivation for the child in common, but he does not want aid for himself and/or his child in common, does his income and resources count in determining the AU's eligibility?

A: MPP Section 82-820.3 states that the applicant child, any sibling or half-sibling of an applicant child and any parent of an applicant child; or, parent of the applicant child's sibling or half-sibling shall be included in the AU. Therefore, mandatory inclusion requires that the unmarried father be included in the AU and his income and resources treated accordingly.

4. Q: What if the unmarried father is unemployed and refuses to apply for UIB?

A: The unmarried father is required to be in the filing unit and AU.

If the unemployed father is the principal earner (PE) and refuses to apply for or accept any UIB to which he may be eligible, the PE and all persons in the filing unit with U-parent deprivation based on that parent are ineligible (MPP 41-440.24). The father's income and resources are treated in accordance with MPP 43-109 (Unrelated Adult Male).

5. Q: IRCA aliens are Federally ineligible for public assistance for five years (i.e. they are not to become public charges). Does the new mandatory inclusion regulation require these IRCA aliens to apply for and accept AFDC?

A: No. IRCA aliens are statutorily excluded.

NOTE: All County Information Notice No. I-09-89 dated February 3, 1989 provided information regarding the treatment of IRCA aliens under the AFDC program, including a Pregnant Woman Only (PWO) IRCA alien. It indicated that a PWO IRCA alien, who was ineligible for Federal aid, would receive state-only AFDC-FG during her entire pregnancy as long as otherwise eligible. However, in order for a PWO to receive aid, both she and the child if born in the payment month must be eligible for AFDC. Since a pregnant IRCA alien loses her eligibility once the child is born, she would not be eligible for AFDC-FG as a PWO until the five-year time limit expires. Therefore, the portion of ACIN No. I-09-89 addressing PWO IRCA aliens is no longer applicable and should not be used.

Effective August 1, 1991, the ineligible alien parent's income would be treated in accordance with MPP 44-133.6. The resources of all IRCA aliens, as well as the income of IRCA aliens other than parents, would be treated in accordance with MPP 42-200 and 44-100 respectively. (See ACL 91-71 dated July 26, 1991 regarding Implementation of the AFDC Federally Mandated Exemptions/Alien Regulations)

SENIOR PARENT, MINOR PARENT (MPP Section 82-808.6)

1. S: Family consists of senior parent, minor parent and minor parent's child.

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- Q: Section 82-808.6 states that a child who is a CR cannot be considered a child for purposes of establishing eligibility for the senior parent. What does this mean?
- A: If the only persons in the home are the senior parent, the minor parent and the minor's child, and the minor parent is the CR of his/her child, then the senior parent is not eligible for AFDC. There must be another eligible child in the home for whom the senior parent is the CR in order for the senior parent to be aided.

QUESTIONS AND ANSWERS
ASSISTANCE UNIT COMPOSITION
 (New Division 80)

ADDING A PERSON - Optional Persons (MPP Section 44-317)

1. Q: With the implementation of the new mandatory inclusion rule, can optional persons still decline aid?

A: Yes. The only persons who can still decline aid are those individuals who are not required to be in the AU (e.g. optional persons).

ADDING A PERSON - Mandatory Persons (MPP Section 44-317)

1. Situation: A mother and a child are receiving AFDC-FG. The father of the child returns to the home. He is required to be included in the AU. The AU REPORTS the father's return on the CA 7, on or before the extended filing date.

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Q: With the new mandatory inclusion rule, what is the Beginning Date of Aid (BDOA) for the father?

A: In the above example, the father must be added to the Filing Unit and eligibility determined, including establishing another basis of deprivation, through a face-to-face interview. A new SAWS 1 (application) is not required to add a person who is required to be included in the AU. For purposes of implementing the AU RSVP regulations, a new JA 2, CA 8 or CA 8A (the applicable Statement of Facts) must be used to document the addition of the person to the AU, unless the County has a current Statement of Facts on file that includes information about the added person.

Since the father is required by the new mandatory inclusion rule to be in the AU (MPP Section 82-820.3), the BDOA is the date he enters the home IF (1) the county is notified and (2) he is otherwise eligible (e.g. he meets all conditions of eligibility). Technical conditions of eligibility met before County authorization are considered met on the date the father is required to be in the AU.

His income and resources would be treated as specified in MPP Sections 44-100 and 42-200 respectively as of the date he enters the home. (See also Question and Answer (Q/A) #3 below for specific treatment of income and resources.)

EXAMPLE #1

An incapacitated father returns to the home October 5. The client notifies the County of his return on the CA 7 received November 5. The County establishes eligibility for the family in November, including establishing that the father is disabled (e.g. he receives SDI). The father's BDOA is October 5.

EXAMPLE #2

A full-time employed father, who had worked over 100 hours in October, returns to the home October 25 and loses his job in the same month. The client notifies the County on the CA 7 received November 5. The AU is ineligible effective November 1 because the County must establish deprivation based on unemployment and the father must be unemployed at least 30 calendar days before the family is aided based on unemployment (MPP Section 41-440.22). The family is potentially eligible December 1. The family (excluding the previously absent father) is eligible for aid in November under MPP Section 41-405.2 (readjustment period).

THE SITUATIONS IN QUESTIONS #2 THROUGH #4 HAVE AN UNMARRIED FATHER, A CHILD IN COMMON, A MOTHER AND HER SEPARATE CHILD.

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2. S: Unmarried father of a child in common returns to the home mid-month (October). He was full-time employed and had worked over 100 hours in that month, but loses his job in the same month. Client REPORTS this on the CA 7, which the County receives in November.
- Q: Since the father worked over 100 hours in the month he entered the home, are the AU members ineligible effective the date he returns?