

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



April 9, 1999

ALL COUNTY LETTER NO. 99-20

TO: ALL COUNTY WELFARE DIRECTORS
 ALL COUNTY WELFARE TO WORK
 COORDINATORS
 ALL CalWORKs PROGRAM SPECIALISTS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: THE WELFARE-TO-WORK (WtW)
 GRANT PROGRAM POLICY ISSUES

REFER: ALL-COUNTY LETTER (ACL) NO. 98-90 (November 18, 1998); H.R. 2015 (Public Law 105-33, 1997); THE U.S. DEPARTMENT OF LABOR (DOL) INTERIM FINAL RULE, TITLE 20 CODE OF FEDERAL REGULATIONS (CFR) PART 645 (November 18, 1997)

The purpose of this letter is to provide additional guidance and clarification in several policy areas related to the implementation of the DOL's WtW Grant Program statewide and its relationship to the California Work Opportunity and Responsibility to Kids (CalWORKs) Program. As issues arise, the California Department of Social Services (CDSS), in collaboration with the Employment Development Department (EDD), plans to provide ongoing clarification as necessary to assist county welfare departments (CWDs) in the coordination of efforts between the CalWORKs and WtW Grant programs. The areas covered in this letter are: (1) sharing of confidential information; (2) program coordination; (3) determining eligibility for the WtW Grant Program based on prior history; (4) re-determining WtW Grant eligibility; (5) deciding what is a "poor work history"; (6) clarifying work requirements for non-custodial parents (NCPs) and, (7) minimizing the duplication of effort, and coordinating activities and services. For purposes of this transmittal, the phrase "WtW Grant partners" means the Private Industry Councils that are administering the WtW Grant formula funds, as well as the 15 percent discretionary and the 25 percent competitive WtW Grant projects.

CONFIDENTIAL INFORMATION

The Welfare and Institutions Code, Section 10850, allows the exchange of confidential data with other agencies for purposes connected to the administration of programs managed or supervised by CDSS. This means that a CWD may share confidential information with another agency such as a WtW Grant partner, on a "need to know" basis, as part of the administration of the CalWORKs Program. After a recipient has been referred to a WtW Grant partner, the partner has a "need to know" for administrative purposes necessary to serve the recipient and to meet the federal WtW Grant data reporting requirements.

In addition, 20 Code of Federal Regulations (CFR) Section 645.214, provides that WtW Grant partners must ensure mechanisms are in place with local CWDs to facilitate the exchange of

information necessary to determine WtW Grant eligibility. Effective information exchange mechanisms are essential to the success of the WtW Grant Program and should help forestall delays in the provision of information for timely enrollment of participants in the WtW Grant Program. To assist in this effort, CWDs are expected to work with the WtW Grant partners to develop processes to support the sharing of eligibility information to serve CalWORKs recipients, which may include entering into agreements or MOUs to foster coordination and facilitate the exchange of confidential information. As appropriate, it is recommended that such mechanisms should not only cover the exchange of confidential information but also what services and activities will be provided and which entity will be responsible for providing any particular service. As provided in 20 CFR Section 645.225, regardless of the type of process chosen to facilitate the exchange of information, the WtW Grant Program must be “coordinated effectively” with activities and services being provided through the CalWORKs Program to assist recipients in meeting their CalWORKs work requirements and attaining self-sufficiency.

PROGRAM COORDINATION

CWDs and WtW Grant partners are encouraged to develop arrangements in their local areas to ensure early placement of eligible recipients in appropriate activities. CWDs are working statewide with the WtW Grant partners through the use of some innovative strategies to ensure the success of this new program. A few strategies are playing a key role in facilitating early intervention. For example, some CWDs and WtW Grant partners are co-locating at the same site while others are setting up a triage at the initial appraisal or assessment where WtW Grant eligible CalWORKs recipients are identified and referred to the WtW Grant Program as early as possible.

For example, it may be appropriate to provide WtW Grant occupational or basic education training to someone who has reached the 18- or 24-month time limit and is in an unsubsidized job or community service activity to allow the participant to move up or secure a better job. It may also be appropriate to provide these individuals with WtW Grant support or job retention services if not otherwise available. WtW Grant partners may also provide refresher courses in interviewing or other skills needed to obtain self-sufficiency.

ELIGIBILITY BASED ON PRIOR HISTORY

As provided in 20 CFR Section 645.214(b)(2), there are two criteria a CWD and WtW Grant partner may use to assess eligibility based on information collected up to six months prior to the eligibility determination. They are: (1) “barriers to employment” as provided in 20 CFR Section 645.212(a)(2) or (2) “characteristics associated with, or predictive of, long-term welfare dependence” as specified in 20 CFR Section 645.213(a)(2). The “barriers to employment” criterion applies to the 70 percent category and the “characteristics associated with...” applies to the 30 percent category. This means that if a CWD or WtW Grant partner documented information about a recipient’s employment or personal background that was collected six months before the WtW Grant Program eligibility determination, that information may be used when determining eligibility for the WtW Grant Program. This six-month period is intended to provide flexibility and an efficient method to minimize duplication of effort that utilizes existing, reliable information.

For example, during a WtW Grant Program eligibility determination, a CalWORKs recipient has been working full time for the past four months with the same employer, received her high-school diploma and completed a drug rehabilitation program. This recipient appears to be doing well and is seemingly not eligible for the WtW Grant Program. However, in reviewing an assessment completed five months prior, the CWD had documented that the recipient did not have a high school diploma, was unable to calculate math above the sixth grade level and had not held a job for more than a few weeks at a time. Based on the information collected five months prior, the recipient is eligible to participate in the WtW Grant Program and will benefit from post-employment services, job retention services and occupational skills training so she can eventually reach self-sufficiency.

For NCPs, H.R. 3130 (Public Law 105-200), signed July 16, 1998, modified the Social Security Act, Section 403(a)(5)(C)(ii), to require NCPs to have at least two of three “barriers to employment” to be eligible for the WtW Grant Program under the 70 percent category. Due to this change, the six-month prior history provision also applies to NCPs when establishing eligibility based on “barriers to employment.”

RE-DETERMINATION OF WtW GRANT ELIGIBILITY

20 CFR Section 645.214(d) provides that, after an individual has begun receiving WtW Grant services, the WtW Grant partners are not required to re-determine WtW Grant eligibility. Once determined eligible, and as long as the individual continues to need WtW Grant Program services, no re-determination of continuing eligibility is required. For example, if a WtW Grant participant ceases to receive CalWORKs cash assistance due to increased earnings, the individual may continue to participate in WtW Grant activities or receive services as long as they are necessary to retain employment and/or become self-sufficient.

In another example, an NCP is participating in a WtW Grant employment activity and is receiving a bus pass to get to and from work at the time the custodial parent and/or minor child of the NCP ceases to receive CalWORKs benefits. The NCP may continue to participate in the WtW Grant Program as long as the activities and services are needed by the NCP to obtain and retain employment.

NCP WORK REQUIREMENTS

The CalWORKs or TANF work requirements do not apply to NCPs who are not CalWORKs recipients. NCP participation is limited to the allowable activities provided under the WtW Grant Program to the extent the services are needed. For cases in which a NCP is under a court order to participate in an employment activity or program, local District Attorney's Offices and WtW Grant partners are encouraged to work together to serve this population.

“POOR WORK HISTORY”

Federal regulation 20 CFR Section 645.212(a)(2)(iii) states that a “poor work history” means “at least 90 percent of the individuals determined to have a poor work history must have worked no more than 3 consecutive months in the past 12 calendar months;” As specified in Question and Answer (Q&A) Administrative and Fiscal (AF) Question Number 16, DOL interprets “worked no more than 3 consecutive months” to mean “worked full time in unsubsidized employment for 13 consecutive weeks.” The DOL interpretation clarifies what “worked” means as it applies to a “poor work history” under the WtW Grant Program. This definition of “poor work history” is applicable to 90 percent of the individuals determined eligible under this characteristic.

There are many employment situations that could apply to DOL’s interpretation of “poor work history.” The following are a couple of examples. An individual has been working for over 13 weeks for a Clerical Temporary Agency. Even though she has worked each week, the hours are sporadic and not full time. Because the work is not full-time employment for 13 consecutive weeks, the individual could be considered to have a “poor work history.” In another example, a person has been working full time for the past 13 weeks but in a “subsidized” position through a Housing and Urban Development program. Because the work is “subsidized,” the individual could be determined to have a “poor work history” based on DOL’s interpretation. In both examples, the individual must meet all other eligibility criteria required by the WtW Grant Program to be eligible to participate.

It is up to the WtW Grant partners to define the alternate characteristics applicable to defining a “poor work history” for up to ten percent of the total individuals determined eligible based on “poor work history.” These alternate characteristics are to be used in place of, not in addition to, the “poor work history” definitions provided by DOL and in federal regulations. As provided in DOL’s Q&A, AF17, all alternate characteristics must be included in the local WtW Grant intake and/or eligibility forms and all partners must agree to the alternate “poor work history” characteristics to be used in a local area.

As provided in federal regulations, the alternate characteristics, for up to ten percent of the population, whose eligibility is based on a “poor work history,” may be established by an individual’s specific circumstance, individualized needs and/or local labor conditions. For instance, a person not having the same employer during a 13-consecutive week employment period or working in a minimum wage job without an opportunity for promotion could be considered to have alternate characteristics for determining a “poor work history.” However, the individuals who are served based on these alternate characteristics must also meet the other eligibility criteria as specified in 20 CFR Sections 645.212(a)(1), (2)(i) or (ii) and (3).

It is important to ensure that the alternate characteristics that are selected for determining a “poor work history” do not adversely affect the implementation of the WtW Grant Program. For instance, defining full-time work as 30 or 32 hours of work per week, as opposed to a higher number of hours per week, significantly reduces the number of CalWORKs recipients that may be

served under this provision. CDSS encourages CWDs and WtW Grant partners to revisit the alternate “poor work history” definitions to determine whether the alternate characteristics they have selected are more restrictive than what is provided in law.

For more information regarding “poor work history” and other WtW Grant issues, please refer to the DOL WtW Grant Q&A through the Internet at <http://wtw.doleta.gov>.

DUPLICATION OF SERVICES AND ACTIVITIES

As provided in 20 CFR, Section 645.220(e), WtW Grant job retention and supportive services can be provided only if such services are not otherwise available. This means that if childcare, transportation, ancillary expenses or other supportive services are funded through the CalWORKs Program, community colleges or any other organization, WtW Grant funds cannot be used to supplant any other existing funded services.

20 CFR, Section 645.225, provides that WtW Grant activities and resources “must be coordinated effectively” with CalWORKs and other related programs. These regulations also provide that whenever appropriate, assessments performed by the CalWORKs Program should be used by WtW Grant partners to maximize coordination and resources and minimize duplication of efforts. These requirements do not prevent CWDs and WtW Grant partners from providing the same activities; however, the same activities must not be provided simultaneously for the same CalWORKs recipient. For example, a CWD and WtW Grant partner cannot both provide the same post-employment service for a recipient at the same time. Alternatively, CWDs and WtW Grant partners may agree that the WtW Grant partner will provide the same services for both CalWORKs recipients who are WtW Grant eligible and for those recipients who are not WtW Grant eligible. In this situation, CWDs could establish an agreement to pay the WtW Grant partner to provide the services for the non-WtW Grant eligible CalWORK recipients while the WtW Grant partner could pay for the services provided to the WtW Grant eligible CalWORKs recipients.

When appropriate, activities and services provided by the WtW Grant Program should be incorporated into the recipient’s CalWORKs Welfare-to-Work plan. When WtW Grant activities amend the recipient’s CalWORKs Welfare-to-Work plan, the CWD must ensure that recipients receive written notice of plan changes and be given an opportunity to discuss the plan amendment with the CWD.

SINGLE POINT OF CONTACT

CDSS is requesting all CWDs to provide a single point of contact at the county level for inquiries regarding the WtW Grant Program. The list of contacts will be shared with all WtW Grant partners and CWDs for the coordination of the WtW Grant Program. The contact names will also be added to the mailing list for all EDD and CDSS WtW Grant letters and directives. Please fax the name, title, phone number and address of the county's WtW Grant Program contact to Pat Loader at (916) 654-1048.

CDSS and EDD are strongly committed to the success of the WtW Grant Program in California. We believe this can only be achieved by our continued partnership at all levels. As part of this commitment, CDSS will continue to clarify WtW Grant Program issues as they are brought to our attention.

If you have any concerns or questions about the WtW Grant Program, please call Jim Curtis of Employment Development Department at (916) 654-7799 for the formula WtW Grants or Don Migge at (916) 654-7961 for the 15 percent WtW Grants. For the 25 percent competitive WtW Grant projects, contact DOL, WtW Grant Program Team at (415) 975-4653. If you have any questions about this letter, please contact Pat Loader, Project Analyst, Employment Bureau, at (916) 654-1770 or your county's Regional Advisor at (916) 654-0617.

Sincerely,

***Original Document Signed By
Bruce Wagstaff on 4/9/99***

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

c: CWDA
CSAC
CWA