

Amend Section 40-107 to read:

40-107 COUNTY RESPONSIBILITY

40-107

.1 Assisting the Applicant (Continued)

.14 At the time an individual applies for aid or at the time a recipient's eligibility for aid is determined, the CWD shall provide the individual, in writing and orally as necessary, a description of the 60-month time limit requirements, including the exemptions from the time limit, as provided in Sections 42-302.11 and 42-302.21 and the process by which recipients can claim the exemptions, as provided in MPP Section 42-302.3. In addition, counties are required to provide information on the number of months an applicant, recipient, or former recipient received aid as follows:

.141 The applicant shall be informed, by notice of action, at the time that eligibility for aid is authorized, of the cumulative number of countable months that the recipient has received aid, the specific months that were exempt from the 60-month time limit and the remaining number of months that the recipient may be eligible to receive aid.

.142 The recipient shall be informed, by a notice of action, at redetermination of aid, and at the 54<sup>th</sup> and 58<sup>th</sup> countable months on aid. The notice shall include:

(a) The number of months the recipient received aid as reported on the most recent notice of action,

(b) The cumulative number of countable months that the recipient received aid and the specific exempt months since the last notice of action,

(c) The remaining number of months that the recipient may be eligible to receive aid. (See MPP Section 42-302.2 for definition of countable months.)

.143 Upon request for time limit information, a current or former recipient shall be informed, in writing, within 30 calendar days from the date of receipt of the request. The notice shall include:

(a) The cumulative number of countable months that the recipient received aid,

(b) The specific months that were exempt from the 60-month time limit since the most recent notification (pursuant to MPP Sections 40-107.141 and 40-107.142),

(c) The remaining number of months that the recipient may be eligible to receive aid.

.15 When a former CalWORKs recipient applies for aid in another state and the other state requests information on the number of months of assistance provided by Temporary Assistance for Needy Families (TANF) funds, the county where the aid was last received shall promptly respond to the other state's request in writing.

.151 The county shall also send a notice of action to the former CalWORKs recipient at her/his new address in the other state. The notice of action shall include information on the number of months of TANF-funded assistance that was provided to the other state.

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.152 Months of assistance provided by TANF funds shall be reported to the other state. Assistance provided by the California state-only programs, the Separate State Program for Two-Parent Families and the Segregated State Program for Legal Immigrants is not subject to the Federal TANF 60-month time limit. Individuals who received aid provided by the state-only programs do not accrue months of assistance toward the federal TANF 60-month time limit and therefore, the months of aid shall not be reported to the other state.

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.156 (Continued)

.167 (Continued)

.178 (Continued)

.189 (Continued)

Authority cited: Sections 10553, 10554 and 10604, Welfare and Institutions Code.

Reference: Sections 10613, 11209, 11268, 11324.8(a) and (f)(1), AB 312, Chapter 1568, Statutes of 1990, 11454(b) and (e), 11500(b), 11502(b), and 11511(a), Welfare and Institutions Code; 42 USC Sections 608(a)(7), 682(c)(2), (3), (4) and (5); 45 CFR 205.42(d)(2)(v)(A) and (B) as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808; 45 CFR 205.52(a)(1) and (2); 45 CFR 205.55; 45 CFR 250.20; 45

CFR 250.40(a), (b), (c)(1) and (2); 45 CFR 255.1; 45 CFR 256.1(b), and California Department of Health Services Manual Letter 77-1.

Amend Section 42-301 to read:

42-301            GENERAL TIME LIMIT REQUIREMENTS FOR ADULTS            42-301  
(Continued)

.2        Ineligible Due to Time Limits            ~~Persons~~ Adults who are ineligible for aid based on the ~~18 and 24 month time limit provisions, specified in Sections 42-710, and 42-711.94, and/or the 60-month time limit provisions, specified in Section 42-302,~~ shall be removed from the AU. See MPP Sections 44-133.8 and 82-833.1 for additional regulations pertaining to timed-out adults.

Authority Cited:        Sections 10553 and 10554, Welfare and Institutions Code.

Reference:              Sections 11450 and 11454(a), (b) and (c), Welfare and Institutions Code.

Amend Section 42-302 to read:

42-302            60-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS            42-302

.1            60-Month Time Limit (Continued)

.11            Exceptions (Continued)

.114    Unable to Maintain  
          Employment or  
          Participate

Upon reaching the 60-month time limit, the county determines that ~~the~~ the individual is not able to maintain employment or to participate in welfare-to-work activities, as ~~determined by the county,~~ based on ~~the~~ a current assessment of the individual as specified in MPP Section 42-302.114(b), and the county's finding that the individual has a history of participation and full cooperation in welfare-to-work activities.

(a)

The county's determination that the individual has a history of participation and full cooperation in welfare-to-work activities shall be based on either of the following criteria that may apply:

(1)

The recipient has not failed to meet satisfactory participation, attendance, and progress requirements, without good cause, as evidenced by the absence of an instance or instances of noncompliance that resulted in a welfare-to-work financial sanction during the time an individual was a mandatory welfare-to-work participant.

(A)

For purposes of this section, a sanction received while the individual was a volunteer in the CalWORKs welfare-to-work program pursuant to MPP Sections 42-712.51 or 42-712.52, or an aid recipient in another state shall not be considered a welfare-to-work sanction.

(2)

The recipient has an instance or instances of noncompliance that resulted in a welfare-to-work sanction or sanctions; however, the individual has also maintained to the best of their ability, a sustained period or periods of welfare-to-work participation despite the presence of a significant impairment or combination of impairments, as determined pursuant to MPP Sections 42-711.56, 42-711.57, 42-711.58, or 42-712.442, including

domestic abuse, as determined pursuant to MPP Section 42-715.

(A) For purposes of this section, six months, or two or more periods of welfare-to-work participation within a consecutive 24-month period, including participation in orientation/appraisal, job search, assessment/evaluations, and post-assessment activities, that equal six-months or more shall be considered a sustained period.

(B) For purposes of this section, a significant impairment is one that does not meet the welfare-to-work exemption or waiver requirements in MPP Sections 42-712 or 42-715, respectively, but nevertheless limits an individual's ability to perform the physical and/or mental functions necessary to maintain employment or participate in welfare-to-work activities.

(b) Upon the county's determination that the individual has a history of participation and full cooperation in welfare-to-work, the county shall assess the individual's current ability to maintain employment or participate in welfare-to-work activities.

(1) For purposes of this section, an individual who is fully participating in her/his welfare-to-work assignment upon reaching the 60-month time limit shall be considered capable of work unless the individual's required hours of participation or welfare-to-work activity have been modified in accordance with MPP Section 42-302.114(b)(2)(C).

(2) The county's determination that an individual is incapable of maintaining employment or participating in welfare-to-work activities shall be based upon, but not limited to, one of the following criteria:

(A) The individual has a documented impairment or combination of impairments, as specified in MPP Section 42-302.114(a)(2), that the county has determined severely limits the individual's ability to successfully maintain employment or participate in welfare-to-work activities for 20 or more hours per week.

(B) The individual has a documented impairment or combination of impairments, as specified in MPP Section 42-302.114(a)(2), or has been a victim of domestic abuse for whom the county has waived work requirements, pursuant to MPP Section 42-715, that has resulted in a failure or repeated failure to participate or progress in her/his welfare-to-work activity.

(C) In accordance with MPP Section 42-302.114(a)(2), the individual has a documented impairment and has maintained her/his participation in welfare-to-work activities only through a significant modification of the hours of participation requirement and/or welfare-to-work activities.

(D) The individual has a documented impairment or combination of impairments, as specified in MPP Section 42-302.114(a)(2), and local labor market conditions limit the availability of employers that could reasonably accommodate the individual's physical and/or mental limitations.

(e) Individuals that are determined to be incapable of maintaining employment shall have their condition reviewed at least once every 12 months, unless the disabling condition or conditions is expected to improve at an earlier date. For individuals with a learning impairment, the county shall review the individual's ability to cope with their impairment and shall not require a reevaluation of the learning impairment, which was documented pursuant to MPP Section 42-711.58.

.2 Counting the 60-Month Limit (Continued)

.21 Exempt Months (Continued)

(h) Living in Indian Country (Continued)

(1) Counties shall obtain the required information on unemployment rates through the governing body of each tribal land. (Continued)

.3      Requesting Exemptions/Exceptions      A recipient can request an exemption/exception verbally or in writing. When a recipient states that s/he meets a condition that qualifies as an exemption or exception to the 60-month time limit, as specified in MPP Sections 42-302.21 and 42-302.11, the county shall document the request and provide the recipient with an exemption/exception request form.

.31      Exemption/ Exception Request Form      The form to request an exemption or exception shall include, but is not limited to, the following:

(a)      A description of the exemptions to the CalWORKs 18- or 24-month time limit, provided in MPP Section 42-712, the 60-month time limit, provided in MPP Section 42-302.21, and a description of the 60-month time limit exceptions, provided in MPP Section 42-302.11.

(b)      A statement that the individual may need to provide documentation to substantiate some exemptions/exceptions.

(c)      A statement that exemptions for aid reimbursed by child support collected, grant amounts of \$10 or less, and receiving only supportive services do not require a formal request.

(d)      A statement that the individual will be informed, in writing, whether the exemption/exception is granted or not and the reason.

(e)      A statement that the individual may request a State hearing to appeal a denial of an exemption/exception request.

.32      Exemption/Exception Determination      The county shall inform the individual, in writing, of the exemption/exception determination within 15 calendar days from the date of receipt of a verbal or written request for an exemption/exception. The specified time limit may be exceeded in situations where completion of the determination is delayed because of circumstances beyond the control of the county, in which instances the case record must specify the cause for delay. These instances include:

- (a) Inability on the part of the recipient to provide the necessary verification.
  - (b) Delay on the part of an examining physician to provide the necessary information.
- .33 Documentation of Exemption/Exception      The county shall first research all available and relevant case records before requesting additional verification from the recipient.
- .34 Determination Notice      The notice of action approving or denying a request for an exemption or exception shall include, but is not limited to, the following:
- (a) Notification that a month of aid is or is not exempt from the CalWORKs 60-month time limit based upon the criteria for exempt months provided in Section 42-302.21 and the reason the exemption is granted or denied; or
  - (b) Notification that the individual is or is not eligible to receive assistance beyond the 60-month time limit based upon the criteria for exceptions to the 60-month time limit provided in MPP Section 42-302.11, and the reason the exception is granted or denied; and
  - (c) Notification of hearing rights.

Authority cited:      Sections 10553, 10554, and 11369, Welfare and Institutions Code.

Reference:      Sections 11266.5, 11454, 11454(e) and (e)(5), 11454.5, 11454.5(b) and (b)(4) and (5), and 11495.1, Welfare and Institutions Code, and 42 U.S.C. 608(a)(7)(A), (B) and (D).

Amend Section 44-133 to read:

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

.5        Income and Needs in Cases in Which a Person is Excluded

.51        The income of a parent is considered when that parent is living in the home but is excluded from the AU. A parent's needs shall only be considered if he/she has income unless the parent is an ineligible alien parent as specified in Section 44-133.521. This section does not apply to parents excluded for the following reasons: a) a sanction; b) being a recipient of another aid program; or c) being a member of a different AU. See MPP Section 44-133.8 for treatment of income and needs of timed-out adults. Parents whose needs and income are considered include, but are not limited to: (Continued)

.8        Income and Needs of Timed-Out Adults.

Income and needs of adults living in the home who have been removed from the AU due to exceeding the 60-month CalWORKs time limits shall be treated as follows:

.81        Parents otherwise required to be in the AU. Net non-exempt income of timed-out parents who are otherwise required to be in the AU and living in the home shall be considered available to the AU. The needs of these parents shall not be considered when calculating the grant for the aided AU members.

.82        Non-parent caretaker relatives. Timed-out non-parent caretaker relatives living in the home are no longer eligible to be optional AU members, and their income and needs shall not be considered when calculating the grant for the aided AU members.

.83        Stepparents not required to be in the AU. Timed-out stepparents not required to be in the AU and living in the home are no longer eligible to be optional AU members, and their net non-exempt income and needs shall be treated in accordance with the provisions of MPP Sections 44-133.51 and 44-133.511.

.84        See MPP Sections 42-301 and 82.833.1 for regulations regarding timed-out adults. For timed-out adults whose income must be considered in the AU's grant computation, net nonexempt income shall be determined as specified at MPP Section 44-113.2.

Authority cited: Sections 10553, 10554, 10604, and 11369, Welfare and Institutions Code.

Reference: Sections 10063, 10553, 10554, 10604, 11008.14, 11254, 11320.15, 11450, 11452, 11453, 11486, 18937, 18940, and 11371, Welfare and Institutions Code; 45 CFR 205.50(a)(1)(i)(A); 45 CFR 233.20(a)(1)(i); 45 CFR 233.20(a)(3)(ii)(C), (a)(3)(vi)(B), (a)(3)(xiv), (a)(3)(xiv)(B), and (xviii); 45 CFR 233.50(A)(c); and 45 CFR 233.90(c)(2)(i); Family Support Administration Action Transmittal 91-15 (FSA-AT-91-15), dated April 23, 1991; and Omnibus Budget Reconciliation Act (OBRA) of 1990; U.S. Department of Health and Human Services Federal Action Transmittal No. FSA-AT-91-4 dated February 25, 1991; Simpson v. Hegstrom, 873 F.2d 1294 (1989); Ortega v. Anderson, Case No. 746632-0 (Alameda Superior Court) July 11, 1995; and Federal Register, Vol. 58, No. 182, pages 49218 - 20, dated September 22, 1993; 8 U.S.C. 1631; and 42 U.S.C. 602(a)(39).

Amend Section 82-832 to read:

82-832 EXCLUDED PERSONS  
(Continued)

82-832

.132 (Continued)

- ~~(d)~~ ~~Person Who Has Exceeded the Time Limit. Is a person who has become ineligible for cash aid due to exceeding the 18 , 24 (Section 42-710), or 60-month time limits (Section 42-302) for aid.~~
- ~~(e)~~ (Continued)
- ~~(f)~~ (Continued)
- ~~(g)~~ (Continued)
- ~~(h)~~ (Continued)
- ~~(i)~~ (Continued)
- ~~(j)~~ (Continued)
- ~~(k)~~ (Continued)

Authority cited: Sections 10553, 10554, 10604, and 11369, Welfare and Institutions Code.

Reference: Sections 10063, 10553, 10554, 10604, 11008.14, 11254, 11450, 11452, 11453, 11486, 18937, 18940, and 11371, Welfare and Institutions Code; 45 CFR 205.50(a)(1)(i)(A); 45 CFR 233.20(a)(1)(i); 45 CFR 233.20(a)(3)(ii)(C), (a)(3)(vi)(B), (a)(3)(xiv), (a)(3)(xiv)(B), and (xviii); 45 CFR 233.50(A)(c); and 45 CFR 233.90(c)(2)(i); Family Support Administration Action Transmittal 91-15 (FSA-AT-91-15), dated April 23, 1991; and Omnibus Budget Reconciliation Act (OBRA) of 1990; U.S. Department of Health and Human Services Federal Action Transmittal No. FSA-AT-91-4 dated February 25, 1991; Simpson v. Hegstrom, 873 F.2d 1294 (1989); Ortega v. Anderson, Case No. 746632-0 (Alameda Superior Court) July 11, 1995; and Federal Register, Vol. 58, No. 182, pages 49218 - 20, dated September 22, 1993; 8 U.S.C. 1631; and 42 U.S.C. 602(a)(39).

Adopt Section 82-833 to read:

82-833    TIMED-OUT ADULTS

82-833

.1        A timed-out adult is an adult who has been removed from the AU due to exceeding the 60-month CalWORKs time limit specified in MPP Section 42-301. See MPP Section 44-133.8 for treatment of income and needs of timed-out adults.

Authority cited:        Sections 10553, 10554, 11270, and 11369, Welfare and Institutions Code.

Reference:                45 CFR 205.42(d)(2)(v)(A) and (B), as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808, 45 CFR 205.52, 45 CFR 206.10(a)(5)(i), 45 CFR 232.12(d), 45 CFR 233.10(a)(1)(i), (a)(1)(i)(B), and (a)(3), 45 CFR 233.20(a)(1)(i), (a)(3)(ii)(C) and (F), and (a)(3)(ix), 45 CFR 233.50, 45 CFR 233.51, 45 CFR 233.90(c), (c)(1), and (c)(2)(iv), 45 CFR 233.100(a)(5)(ii), 45 CFR 233.106, 45 CFR 240.22, and 45 CFR 250.34(a) and (c), and (c)(2); and Sections 11008.13, 11104, 11157, 11201(b), 11203, 11251.3, 11263.5, 11268, 11270, 11315, 11320.6(e), 11327.5(c), 11406.5, 11450, 11454, 11454.5, 11477, 11477.02, 11486, and 11486.5, Welfare and Institutions Code; and the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Section 115.