

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



September 7, 2001

Regulation Package #0301-04

CDSS MANUAL LETTER NO. EAS-01-07

TO: HOLDERS OF THE EAS MANUAL, DIVISIONS 42 AND 44

Regulation Package #0301-04**Effective 8/30/01****Sections 42-701, 42-716, and 44-111**

The attached regulations include revisions made for clarity to the emergency regulations that were adopted to implement and make specific Assembly Bill (AB) 1233 (Chapter 933, Statutes of 2000). The emergency regulations 1) provided a voluntary alternative to unpaid community service placements after the 18- or 24-month time limit, which many CalWORKs Welfare-to-Work participants are now reaching; 2) ensured that CalWORKs Welfare-to-Work participants are assigned to grant-based OJT only on a voluntary basis, and 3) established notification requirements, so that CalWORKs Welfare-to-Work participants are advised of the impact grant-based OJT may have on their income, before they volunteer for the assignment.

These regulations were adopted on an emergency basis effective April 1, 2001 and were considered at the Department's public hearing held on May 16, 2001.

FILING INSTRUCTIONS

Revisions to all manuals are shown in graphic screen. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing EAS changes was EAS-01-06.

Page(s)Replace(s)221.1
258 through 259.2Page 221.1
Pages 258 through 259.2

Attachment

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42-701	INTRODUCTION TO WELFARE-TO-WORK (Continued)	42-701
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- (F) Adults or minors who are or formerly were related by marriage;
- (G) Adults or minors who are engaged or were formerly engaged to be married;
- (H) Persons who have a child in common;
- (5) Domestic abuse is also abuse perpetrated:
 - (A) Against minor children of persons in Sections 42-701.2(d)(4)(A) through (H); or
 - (B) When an adult or minor acts in concert with or on behalf of a perpetrator in a relationship identified in Sections 42-701.2(d)(4)(A) through (H).
- (e) (1) "Employment" means work that is compensated at least at the applicable state or federal minimum wage. If neither wage rate applies, the work must be compensated in an amount equivalent to the lesser of the two.
- (2) "Exempt" means that a CalWORKs applicant or recipient is not required to participate in Welfare-to-Work activities as a condition of eligibility for aid.
- (f) (1) "Fixed-Unit Price" means a set fee or price for a single component or group of services that achieve a specific goal.
- (g) (1) "GAIN" means Greater Avenues for Independence.
- (2) "Grant-Based On-The-Job Training (OJT)" is a funding mechanism for subsidized public or private sector employment or OJT in which the recipient's cash grant, or a portion thereof, or the aid grant savings resulting from employment, or both, is diverted to the employer as a wage subsidy to partially or wholly offset the payment of wages to the participant, so long as the total amount diverted does not exceed the family's maximum aid payment. Grant savings from employment is the net nonexempt income from employment, as determined pursuant to Section 44-111.2. Grant-based OJT may include community service positions.

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HANDBOOK BEGINS HERE

- .612 When an individual is determined to have a substance abuse problem, based on an evaluation by the county alcohol and drug program or a state-licensed or certified nonprofit agency, the case manager shall develop the participant's welfare-to-work plan based on the results of that evaluation. In such a case, the individual's welfare-to-work plan may include appropriate treatment requirements, including assignment to a substance abuse program.
- .613 When a participant's welfare-to-work plan includes assignment to a treatment program, the case manager may determine that the participant is out of compliance with the welfare-to-work plan if, at any time in consultation with the substance abuse treatment provider, the county determines that the participant has failed or refused to participate in a treatment program without good cause. The assigned treatment program shall be reasonably accessible within the county of residence or a nearby county.
- .614 When a case manager determines that a participant in a treatment program as specified in his or her welfare-to-work plan is out of compliance with a program requirement other than participation in a required treatment program, the determination of whether the participant has good cause to be out of compliance shall include consideration of whether the participant's substance abuse problem caused or substantially contributed to the failure to comply with the program requirements. In this determination, the county must consult the substance abuse treatment provider as appropriate.
- .615 No recipient may participate in a substance abuse treatment program for longer than six months without concurrently participating in a welfare-to-work activity, to be determined by the county and the recipient, in consultation with the treatment provider.
- (a) If the recipient is in a state-licensed residential facility or a certified nonresidential substance abuse program that requires him or her to stay at the program site for a minimum of three hours a day, three days per week, or otherwise not to participate in nonprogram activities, the requirements of the treatment program shall fulfill the recipient's welfare-to-work activity requirement.
- .62 Each county shall report annually to the state the number of CalWORKs Program recipients who receive substance abuse treatment and the extent to which the allocation is sufficient to meet the need for substance abuse services as determined by the county.

HANDBOOK ENDS HERE

42-716	WELFARE-TO-WORK ACTIVITIES (Continued)	42-716
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.7 Job Openings

- .71 The employer or sponsor of an employment or training position specified in Section 42-716.111 shall assist and encourage qualified participants to apply for job openings in the sponsor's organization.
- .72 Participants assigned to public agencies shall be allowed to compete in classified service examinations equivalent to the positions they occupy, and all open and promotional examinations for which experience in the job or other relevant experience qualifies under merit system rules.
- .73 A participant's time worked in a position shall apply toward seniority in a merit public agency position, only to the extent permitted under federal or state law, local ordinance, or collective bargaining agreement.

.8 Grant-based OJT

- .81 The CWD shall assign a recipient to a grant-based OJT funded position only if the individual voluntarily consents in writing to the diversion of her/his grant to an employer as a wage subsidy following a one-on-one meeting in which the consent form and assignment are reviewed and discussed with the individual. The written consent shall include, but is not limited to, the following:
 - .811 A statement that the recipient's assignment to grant-based OJT is voluntary and the CWD shall take no action against the individual for refusing to agree to be assigned to a grant-based OJT funded position.
 - .812 Notification that the participant is subject to sanction pursuant to Section 42-721, if she/he fails to comply with the requirements of the grant-based OJT assignment without good cause.
 - .813 A statement that the participant's net income from grant-based OJT may be less than the participant's current grant payment.
 - .814 The worksite(s) and job duties, the duration of the grant-based OJT assignment, hours of employment, hourly wage, and any available benefits.
 - .815 The good cause criteria specified in Sections 42-713 and 42-721.3.
 - .816 An agreement by the participant acknowledging the participant's obligation to return to the CWD any recovered wages up to the amount of the corrective underpayment paid pursuant to Section 42-716.852.

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- .82 The CWD shall provide grant-based OJT funded community service positions, pursuant to Sections 42-711.9 and 42-716.4, only if the community service component of the county CalWORKs plan specifies the process by which the CWD will comply with the voluntary consent requirement and lists the languages, other than English, in which written consent will be obtained.

- .83 The participant's diverted cash grant and grant savings shall be used by the employer for the sole purpose of subsidizing the participant's wages.
 - .831 Any portion of a participant's wage that is funded by the diversion of the recipient's cash grant and/or grant savings to the employer shall not be entitled to the income disregards specified in Section 44-111.23.
 - .832 Any portion of the grant-based OJT participant's wages that are not derived from the participant's diverted grant and/or grant savings shall be subject to the income disregards specified in Section 44-111.23, however, the resulting grant and grant savings may be diverted to the employer.

- .84 After the participant has reached their 18- or 24-month limit as specified in Section 42-710, the subsidy provided to the employer by the CWD shall be limited to the amount of the participant's diverted grant and/or grant savings.
 - .841 Nothing in this Section 42-716.84 shall preclude an employer from using its own funds to pay a portion of the participant's wages.

- .85 The CWD shall administer grant-based-OJT funded positions in a manner that minimizes any break in income received by the participant as a grant, or as a wage subsidized by the diverted grant and/or grant savings upon entry into, during, or upon exit from the assignment.
 - .851 Notwithstanding any other provision of Sections 44-313.1 and .2, the AU's monthly aid grant shall be prospectively budgeted as specified in Section 44-313.11 during the grant-based OJT placement. The prospective budgeting period shall begin in the month the participant is expected to receive her/his first grant-based subsidized wages and for the two months after the assignment ends. CWDs shall explain the requirements of prospective budgeting to all OJT participants.
 - .852 When there is any break in income for a grant-based OJT participant caused by an employer's conduct or the participant's inability or failure to work her/his scheduled hours with or without cause, the CWD shall ensure that a recipient receives 100 percent of the maximum aid grant payment for which she/he is otherwise eligible, less the gross amount of the grant-based wages and any other non-exempt income received by the participant. The payment shall be made as a corrective underpayment within five calendar days of the participant notifying the CWD, or within two calendar days of CWD notification if the participant has an eviction Notice or a Notice to Pay Rent or Quit.

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- (a) If the participant's total gross wages paid in a month are less than the total amount of the diverted grant for that month, a corrective underpayment shall be issued in accordance with Section 44-340. This corrective underpayment shall be equal to the difference between the amount of the gross wages paid to the recipient and the amount of the grant diverted for the month.
 - (1) The participant shall return to the CWD the amount of unpaid wages that are recovered from the employer and for which the CWD issued a corrective underpayment. Any such recovered wages not returned by the participant to the CWD shall be treated as an overpayment.
 - (b) The CWD shall collect from the employer any amount of the grant and/or grant savings diverted to the employer that was not paid as wages to the recipient.
- .86 Wages derived from the diverted grant and/or grant savings and paid to a participant pursuant to this section shall not be considered as income in any determination of financial eligibility for the CalWORKs program.
- .87 The CWD shall not place grant-based OJT participants with an employer unless the employer agrees, at a minimum, to all of the following:
- .871 To use the diverted grant solely for subsidizing the participant's wage and to return to the CWD any of the grant and/or grant savings received that are not paid as wages to the participant.
 - .872 Not to displace current employees with grant-based OJT participants pursuant to Section 42-720.1.
 - .873 To comply with the labor union and employee notification requirements specified in Section 42-720.3.
 - .874 To comply with all applicable federal and state labor laws and regulations.
 - .875 That the employer's participation in grant-based-OJT funded job placements may be cancelled pursuant to Section 42-716.881.
- .88 The CWD shall monitor the retention of participants as employees by employers participating in grant-based OJT.