

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



October 24, 2001

Handbook Package #0801-19 and Regulation Package 0800-17

CDSS MANUAL LETTER NO. EAS-01-09

TO: HOLDERS OF THE EAS MANUAL, DIVISIONS 43, 44, 80 and 82

Handbook Package #0801-19**Effective 10/1/01****Sections 44-115 and 44-315**

These handbook sections are amended to reflect a 5.31 percent Cost of Living Adjustment (COLA) increase for the MBSAC, MAP, and In-Kind levels. The revised levels are effective October 1, 2001.

Regulation Package #0800-17**Effective 10/10/01****Sections 43-119, 44-133, 80-301, and 82-832**

The federal deeming law was changed to provide that with certain exceptions, until a noncitizen is naturalized, all income and resources of the sponsor and the sponsor's spouse shall be considered in the determination of eligibility for sponsored noncitizens requesting assistance under federal or state means-tested programs. The household size is determined by including all individuals, including the sponsored noncitizen, for which the sponsor is responsible. The income deductions allowed under the previous law are no longer applicable. These proposed regulations implement and make specific the requirements of 8 U.S.C. 1183a and 8 U.S.C. 1631, as enacted in the Personal Responsibility and Work Opportunity Reconciliation Act and the Illegal Immigration Reform and Immigration Responsibility Act. State agencies can follow the collection procedures for reimbursement of aid received by a sponsored noncitizen prescribed in INS regulations at 8 CFR 213a.4.

In addition, the new federal law specifies that a 12-month exception to the deeming requirement may be applied to an indigent noncitizen who would, except for aid, be homeless and hungry and to a battered noncitizen who (or whose children or parent) has been subjected to battery or extreme cruelty in the U.S. The exceptions to the deeming requirements for the battered noncitizen family may be extended beyond the 12-month limit if abuse has been recognized by an order of a judge, Administrative Law Judge, or by a prior determination of the Immigration and Naturalization Service.

Also, throughout these proposed regulations the term "alien" is being changed to the term "noncitizen." The term "noncitizen" is synonymous with the previously used term, "alien."

These regulations were adopted on October 10, 2001 and were considered at the Department's public hearing held on February 14, 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-01-08.

<u>Page(s)</u>	<u>Replace(s)</u>
364 through 367	Pages 364 through 367
404 and 405	Pages 404 and 405
414 and 415	Pages 414 and 415
479 and 480	Pages 479 and 480
853 through 856	Pages 853 through 856
859 and 860	Pages 859 and 860
914 through 917	Pages 914 through 917

Attachment

JTP

43-109 REQUIRED FINANCIAL CONTRIBUTION - UNRELATED ADULT MALE 43-109
(Continued)

See Section 43-107.54 for action to be taken if the unrelated adult male refuses to sign a statement regarding his contribution to the family.

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

43-117 NOTIFICATION TO SUPERIOR COURT 43-117

In all cases when aid has been supplied for or granted to a child of parents who are involved in a divorce, the county welfare department shall notify the superior court in accordance with W&I Code Section 11485. The notice shall contain any information known by the welfare department concerning financial resources of the parents which might be applied to child support. Form CA 321 may be used for this purpose. If the court becomes aware that children may be receiving aid or that an application may be made when a divorce or separate maintenance action has been filed, the court is required by W&IC Section 11485 to notify both the district attorney and the county welfare department of pending action. Form CA 322 is available for this purpose. In such cases, the county should reply on Form CA 321.

43-119 SPONSORED NONCITIZENS 43-119

.1 Sponsored Noncitizen - Definition

.11 Repealed by Manual Letter No. EAS-91-14, effective 10/1/91.

.12 The provisions of Sections 43-119.2 and .3 do not apply if the noncitizen is:

.121 Admitted to the United States as a result of the application of the provisions of Section 203(a)(7) (in effect prior to April 1, 1980) of the Immigration and Naturalization Act;

.122 Admitted to the United States as a result of the application of the provisions of Section 207(c) (in effect after March 31, 1980) of the Immigration and Naturalization Act;

.123 Paroled into the United States as a refugee under Section 212(d)(5) of the Immigration and Naturalization Act;

.124 Granted political asylum by the Attorney General under Section 208 of the Immigration and Naturalization Act;

43-119 SPONSORED NONCITIZENS (Continued) 43-119

.125 A Cuban or Haitian entrant, as defined in Section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).

.126 A sponsored noncitizen that entered the country with an I-134 Affidavit of Support.

.2 Individual Sponsors

.21 The provisions of Section 43-119.2 apply only to noncitizens:

.211 Whose sponsor signed an I-864 Affidavit of Support;

.212 Who are sponsored by individuals;

.213 Who are not exempt under Section 43-119.12; and

.214 Until such time as the noncitizen:

(a) Achieves United States citizenship through naturalization pursuant to the Immigration and Nationality Act (8 U.S.C. 1421 et seq.); or

(b) Has worked 40 qualifying quarters of coverage under Title II of the Social Security Act (42 U.S.C. 401 et seq.) or can be credited with such qualifying quarters as provided under 8 U.S.C. 1645, and

(1) In the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any federal means-tested public benefit, as provided under 8 U.S.C. 1631, during any such period.

(c) Leaves the country permanently; or

(d) The sponsor or noncitizen dies.

.22 All the income and resources of the sponsor who is not receiving CalWORKs, SSI or other public cash assistance payments (such as General Assistance) and the income and resources of the sponsor's spouse who lives with him/her and who is not receiving such public assistance payments shall be deemed to be the income and resources of the sponsored noncitizen. See Section 44-133.7 for the determination of the amount of this income, and Section 42-205.5 for the determination of the amount of resources. The following are exceptions to the deeming provisions:

.221 If a determination is made by the county that a sponsored noncitizen would go hungry and homeless without aid, the sponsored noncitizen is determined to be indigent. The exceptions to the deeming provisions that are permitted for indigence are as follows:

43-119 SPONSORED NONCITIZENS (Continued) 43-119

- (a) In these cases, the amount of income and resources of the sponsor or the sponsor's spouse that is attributed to the sponsored noncitizen shall not exceed the amount actually provided.
- (b) This exception applies for a period beginning on the date of such determination and ending 12 months from that date. This exception is not renewable or transferable and it is granted only once in a lifetime.

HANDBOOK BEGINS HERE

- (c) When a sponsored noncitizen is unable to provide the necessary information regarding their sponsor and the county can not establish contact with the sponsor and it is determined the sponsored noncitizen would go hungry and homeless without aid, the sponsored noncitizen is ruled indigent.

HANDBOOK ENDS HERE

.222 For a 12-month period, the noncitizen shall be exempt from this deeming provision if:

- (a) In the case of an abused noncitizen or an abused parent of a noncitizen child:

The noncitizen or parent demonstrates that he/she has been battered or subjected to extreme cruelty in the United States by a spouse or a parent; or by a member of the spouse or parent's family who are residing in the same home as the noncitizen, and the spouse or parent consented to or acquiesced to such battery or cruelty.

- (b) In the case of a noncitizen whose child is abused:

The noncitizen child has been battered or subjected to extreme cruelty in the United States by the spouse or parent or family members of the noncitizen (without the active participation of the noncitizen in the battery or cruelty).

- (c) After a 12-month period, the exception to the provision under Section 43-119.222 continues regarding the batterer's income and resources only, if the noncitizen demonstrates that such battery or cruelty has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service.

.223 For the application of Section 43-119.222, there must exist, in the opinion of the county providing aid, a substantial connection between the battery or extreme cruelty and the need for the aid.

43-119	SPONSORED NONCITIZENS (Continued)	43-119
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- .224 Section 43-119.222 shall not apply to aid for a noncitizen during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual who was subjected to such battery or cruelty.

- .23 As a condition of eligibility, the sponsored noncitizen has the following responsibilities:
 - .231 To provide upon county request, information and documentation concerning his/her sponsor which may be necessary to make the determination under Section 44-133.7 and Section 42-205.5; and information and documentation which the noncitizen and his/her sponsor provided in support of the noncitizen's immigration application.
 - (a) When a sponsored noncitizen is unwilling to provide the necessary information regarding their sponsor or when the information that is provided is not acceptable, the sponsored noncitizen is ineligible.

 - .232 To obtain the cooperation from his/her sponsor which is necessary to make the determination under Section 44-133.10 and Section 42-205.5.

 - .233 To comply with reporting requirements specified in Section 40-181.25.

- .24 In the event of the death of a noncitizen's sponsor(s), verification of death(s) shall be required only when the information reported is questionable. In the absence of evidence to the contrary, the sponsored noncitizen's statement under penalty of perjury is to be accepted and the sponsored noncitizen provisions shall no longer apply.

HANDBOOK BEGINS HERE

- .3 Guidance Issued by the U. S. Attorney General for Determination of Substantial Connection Between Battery/Cruelty and Need for Aid (62 FR 65285) paraphrased to relate to the CalWORKs program.

Below is a list of examples to assist counties in making substantial connection determinations between battery or extreme cruelty and the need for the aid.

- .31 When aid is needed to enable the applicant, the applicant's child, and/or (in the case of a noncitizen child) the applicant's parent to become self-sufficient following separation from the abuser.

HANDBOOK CONTINUES

44-115 EVALUATION OF INCOME IN-KIND (Continued) 44-115

Income in kind will only be considered if the nonneedy relative chooses to make a voluntary contribution to the FBU. The county shall determine if the nonneedy relative wishes to contribute income in kind to the support of the child(ren) in his/her care. If he/she does so, the amount of a contribution actually received shall be determined in accordance with Section 44-115.3, In-kind Income Values, and be considered net income to the FBU.

Natural or adoptive parent, stepparents of AFDC children whose natural parent is in the home, or any other adult whose needs are met through APSB, AFDC, EVH, SSI/SSP, IRAP or In-Home Care programs shall not be considered to be nonneedy relatives for purposes of this section and no income in kind may be considered.

.3 In-Kind Income Values

.31 Provided that a lower value is not established in accordance with .32 below, the in-kind income amounts effective July 1, 1981 for housing, utilities (including telephone), food and clothing, as adjusted for any increases or decreases in the cost of living specified in .311, and published by the DSS, shall apply for those item(s) of need received in-kind by the AU. If a lower value is established in accordance with .32 below, such value shall apply for the appropriate item(s) of need received in-kind by the AU.

.311 Individual in-kind income amounts shall be adjusted by the same percentage increase or decrease that is applied to the Minimum Basic Standard of Adequate Care (MBSAC) levels. Such adjustments to the in-kind income amounts shall be effective at the same time as adjustments to the MBSAC levels become effective.

HANDBOOK BEGINS HERE

(a) INCOME IN-KIND AMOUNTS - REGION 1

Needs Considered # in AU	Housing	Utilities	Food	Clothing
1	191	40	105	33
2	255	45	225	62
3	279	48	287	93
4	293	51	356	124
5	293	51	430	156
6	293	51	497	186
7	293	51	554	220
8	293	51	607	245
9	293	51	667	281
10	293	51	720	309

HANDBOOK CONTINUES

HANDBOOK CONTINUES

INCOME IN-KIND AMOUNTS - REGION 2

Needs Considered in AU	Housing	Utilities	Food	Clothing
1	182	40	105	33
2	242	45	225	62
3	265	48	287	93
4	279	51	356	124
5	279	51	430	156
6	279	51	497	186
7	279	51	554	220
8	279	51	607	245
9	279	51	667	281
10	279	51	720	309

(b) Repealed by Manual Letter No. EAS-99-08, effective 7/30/99.

HANDBOOK ENDS HERE

- .32 If the applicant or recipient does not agree with the value arrived at in .31 above, he/she may submit evidence of the value of the item which he/she received in kind. For housing and clothing, the in-kind income shall be the net market value (see Section 42-203.7) of the item received. For utilities and food, the in-kind income value shall be the cost to the person who paid for the item.

44-133	TREATMENT OF INCOME -- CALWORKS (Continued)	44-133
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- .6 Income of a Nonneedy Caretaker Relative Other than the Parent
 - .61 The amount by which a nonneedy relative, other than a parent with whom the child lives, is able and willing to meet the child's needs is income to the Assistance Unit.
- .7 Income in Cases Where a Noncitizen Has Been Sponsored for Entry into the United States
 - .71 When a noncitizen is sponsored by an individual as defined in Section 43-119.2 the income of his/her sponsor who is not receiving cash aid, SSI or other public cash assistance payments (such as General Assistance) and the income of the sponsor's spouse who lives with the sponsor and who is not receiving such public cash assistance payments shall be deemed to be the sponsored noncitizen's income. This income is determined as follows:
 - .711 Determine the total amount of unearned income of the sponsor and his/her spouse.
 - .712 Determine the total amount of income received by the sponsor and his/her spouse, such as wages or salary, or as net earnings from self-employment. See Section 44-113.212.

44-133	TREATMENT OF INCOME -- CALWORKS (Continued)	44-133
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- .713 If the sponsor is the sponsor of more than one noncitizen, divide the total gross income by the total number of sponsored noncitizens who are applying for or receiving cash aid. This amount shall be deemed to be the income of each applicant or recipient who is a sponsored noncitizen.
 - .714 When the sponsored noncitizen is not included in the AU (see Section 82-832), the portion of his/her income, which has been deemed from the sponsor, shall not be used in determining his/her contribution to the AU unless such income is actually available to the AU.
 - .715 When the sponsored noncitizen is a member of the AU, this deemed income from the sponsor shall be treated as unearned income in accordance with Sections 44-113 and 44-315.4.
 - .716 If the sponsor is either an excluded parent or stepparent, his/her income shall be treated in accordance with the excluded parent or stepparent deeming computation. See Sections 44-133.3 and 44-133.63.
- .72 Repealed by CDSS Manual Letter No. EAS-01-09, effective 10/10/01.

44-315 AMOUNT OF AID 44-315

- .1 Definitions These definitions are specific to and for purposes of this section.
- .11 Net Nonexempt Income "Net Nonexempt Income" means all earned income and disability-based unearned income less applicable disregards, plus any unearned income.

HANDBOOK BEGINS HERE

[See Chapter 44-100 to determine net nonexempt income.]

HANDBOOK ENDS HERE

- .12 Grant Amount "Grant Amount" means the amount of cash aid which is to be paid to the AU for a given month.
- .13 Potential Grant Potential Grant" means the subtotal after the net nonexempt income is subtracted from the MAP plus special needs for the family. The potential grant may equal the grant amount if the potential grant is equal to or less than the MAP plus any special needs for the AU only.
- .2 County Responsibility The county is responsible for computing the amount of aid payment when:
- .21 Granted Aid is granted or restored;
- .22 Redetermination A redetermination of eligibility is made;
- .23 Change There is a change in need, income, or other factors affecting the amount of aid to which the recipient is eligible.
- .3 Amount of Grant The county shall calculate the amount of grant as follows:
- .31 "Family" MAP Determine the Maximum Aid Payment (MAP) for all family members whose needs are considered in the payment month. The MAP is set forth in Welfare and Institutions Code Section 11450.

HANDBOOK BEGINS HERE

.311 MBSAC and MAP Levels

(a) REGION 1 MBSAC/MAP STANDARDS

<u># in AU</u>	<u>MBSAC</u>	<u>EXEMPT*</u>		<u>NONEXEMPT*</u>	
		<u>MAP</u>	<u>80%</u>	<u>MAP</u>	<u>80%</u>
1	423	373	298	336	269
2	693	613	490	548	438
3	859	758	606	679	543
4	1022	901	721	809	647
5	1165	1027	822	920	736
6	1310	1153	922	1033	826
7	1439	1267	1014	1136	909
8	1567	1382	1106	1237	990
9	1699	1492	1194	1336	1069
10 or more**	1844	1603	1282	1435	1148

REGION 2 MBSAC/MAP STANDARDS

<u># in AU</u>	<u>MBSAC</u>	<u>EXEMPT*</u>		<u>NONEXEMPT*</u>	
		<u>MAP</u>	<u>80%</u>	<u>MAP</u>	<u>80%</u>
1	402	355	284	319	255
2	659	584	467	521	417
3	817	723	578	647	518
4	972	859	687	770	616
5	1108	980	784	876	701
6	1245	1100	880	984	787
7	1367	1209	967	1079	863
8	1490	1316	1053	1177	942
9	1615	1424	1139	1272	1018
10 or more*	1754	1528	1222	1366	1093

* See MPP Section 89-110.2 for definition of Exempt and Nonexempt AUs.

** For MBSAC add fourteen dollars (\$14) for each additional needy person.

MBSAC Levels effective 10/01/01, MAP Levels effective 10/01/01.

HANDBOOK CONTINUES

80-301 **DEFINITIONS** (Continued) **80-301**

- (2) Otherwise Eligible "Otherwise eligible" means a status where the person has been determined to meet all eligibility requirements for aid, other than that eligibility factor being considered.
- p. (1) Parent "Parent" means the biological parent, married or unmarried, of the child unless the child has been adopted or relinquished for adoption or the parental rights are terminated. If the child is adopted, the person who adopts the child is the parent. If the child is relinquished for adoption or the parental rights are terminated, that parent is no longer considered the parent except for purposes of determining a caretaker relative.
- (2) Photo Imaging "Photo Imaging" means the process that automatically scans an individual's facial features and produces a facial image. The image is added to the statewide SFIS database.
- (3) Pregnant Woman "Pregnant woman" means a woman (including a minor) who has provided medical verification of pregnancy to the county.
- (4) Public Hospital "Public hospital" means an institution which is:
- (A) Licensed or formally approved as a hospital by an officially designated state standard-setting authority for study, diagnosis, treatment of physical, emotional, or mental conditions, care of injured, disabled or sick persons, and
- (B) Supported from public funds, and
- (C) Managed and controlled by a unit of government.
- q. (Reserved)
- r. (1) Recipient "Recipient" means a person who is receiving AFDC.
- (A) A person becomes a "recipient" on the date on which both of the following conditions are met:

80-301 **DEFINITIONS (Continued)** **80-301**

1. the person meets all conditions of eligibility, and
2. the county signs authorization documents to approve the application for AFDC.

HANDBOOK BEGINS HERE

- (B) An applicant who has been approved for an immediate need and/or homeless assistance payment based on his/her apparent eligibility is not considered to be a recipient, as specified in Section 40-129. In these cases, the county has not signed authorization documents to approve the AFDC application.

HANDBOOK ENDS HERE

- (2) Recover "Recover" means to grant adjust or collect an overpayment.
- s. (1) Sanction "Sanction" means action taken by the county resulting in ineligibility resulting from an action or lack of action by a recipient.
- (2) Second Parent "Second Parent" means the parent living in the home who is not the caretaker relative parent.
- (3) Senior Parent "Senior Parent" means the parent of a minor parent when the minor parent receives aid for his/her child or the parent of a minor pregnant woman.
- (4) Sibling "Sibling" means the brother or sister who has both parents in common with the applicant child. This includes siblings by adoption.
- (5) Sponsored Noncitizen "Sponsored noncitizen" means a noncitizen whose entry into the United States was sponsored by a person who executed an I-864 Affidavit of Support or similar agreement on behalf of a noncitizen as a condition of the noncitizen's entry into the United States.

80-301 **DEFINITIONS** (Continued) **80-301**

- (6) California Department of Social Services (CDSS) "CDSS" means the state department which supervises the counties in the administration of the AFDC program. Also referred to as Department.
- (7) Statement of Facts "Statement of Facts" means the CA 8 (Rev. 2/84) CA 8A (Rev. 10/89), CA 20 (Rev. 4/88), CA 22 (Rev. 10/85); CA 23 (Rev. 1/85), CA 24 (Rev. 1/85), JA2 (Rev. 4/90) or SAWS 2 (Rev. Pending) are the state required forms used to collect the information necessary to determine a family's eligibility. See Section 80-310 for title and definition of forms.
- (8) Statewide Fingerprint Imaging System (SFIS) "Statewide Fingerprint Imaging System (SFIS)" means an automated system that captures fingerprint and photo images and stores them in a statewide database.
- (9) Stepparent "Stepparent" means the person who is not the biological parent and is married to the parent of the child.
- (10) Strike "Strike" means a concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.
- (11) Striker "Striker" means an applicant or recipient who is participating in a strike on the last day of the month.
- (12) Supplemental Security Income/State Supplementary Program "SSI/SSP child" means a child who would be eligible for AFDC except that he/she is receiving SSI/SSP. SSI/SSP is the federal/state assistance program for persons who are aged, disabled or blind as authorized by Title XVI of the Social Security Act.

80-301	DEFINITIONS (Continued)	80-301
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- t. (Reserved)
- u. (Reserved)
- v. (Reserved)
- w. (Reserved)
- x. (Reserved)
- y. (Reserved)
- z. (Reserved)

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

TERM	PREVIOUS CITE	REFERENCE
Aid to Families With Dependent Children (AFDC)	40-103.84	45 CFR 201.3 and Sections 10553 and 10554, Welfare and Institutions Code.
Aid to Families With Dependent Children - Foster Care (AFDC-FC)	40-103.843	Sections 10553, 10554, and 11400(a), Welfare and Institutions Code.
Aid to Families With Dependent Children - Family Group (AFDC-FG)	40-103.841	Section 11250, Welfare and Institutions Code.
Aid to Families With Dependent Children-Unemployed Parent (AFDC-U)	40-103.842	Section 11201, Welfare and Institutions Code.
Aid Payment	N/A	

	ELIGIBILITY AND ASSISTANCE STANDARDS	
Regulations	DEFINITIONS AND FORMS	80-301

80-301	DEFINITIONS (Continued)	80-301
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TERM	PREVIOUS CITE	REFERENCE
Recover	N/A	
Sanction	N/A	45 CFR 224.51 and 45 CFR 232.12(d)(1).
Second Parent	N/A	Sections 10553 and 10554, Welfare and Institutions Code.
Senior Parent	N/A	45 CFR 233.20 and Sections 10553 and 10554, Welfare and Institutions Code.
Sibling	N/A	Sections 10553 and 10554, Welfare and Institutions Code.
Sponsored Noncitizen	43-119.1	8 CFR 213a. and 299, 45 CFR 233.20(a)(3)(xv) and 45 CFR 233.51 and Section 11008.13, Welfare and Institutions Code.
State Department of Social Services (SDSS)	N/A	Section 10054, Welfare and Institutions Code.
Statewide Fingerprint Imaging System (SFIS)	N/A	42 USC 402(a)(6) and Section 10830, Welfare and Institutions Code.
Statement of Facts	N/A	Sections 10553, 10554, and 11054, Welfare and Institutions Code.
Stepparent	43-103.3	45 CFR 233.20(a)(3)(xiv) and Section 11008.14, Welfare and Institutions Code.
Strike	41-701.21	45 CFR 233.106 and Section 11250.4, Welfare and Institutions Code.
Striker	41-701.23	45 CFR 233.106 and Section 11250.4, Welfare and Institutions Code.
SSI/SSP Child	N/A	45 CFR 233.90.

80-310	DEFINITIONS - FORMS	80-310
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The following forms apply to the regulations in Divisions 40 through 50 and 80 through 89.

- a. (Reserved)
- b. (Reserved)
- c. (1) CA 2.1 NA
The "Child/Spousal and Medical Support Notice and Agreement" (Rev. 12/89) is used to inform the applicant of his/her responsibility to participate in the support enforcement process and of his/her right to claim exemption from participation.
- (2) CA 2.1 (Q)
The "Support Questionnaire" (Rev. 2/91) is used to collect information about the absent parent.
- (3) CA 8
The "Statement of Facts for Additional Persons" (Rev. 2/84) is used to collect the information necessary to determine eligibility when adding a person.
- (4) CA 8A
The "Statement of Facts to Add a Child Under 16 Years" (Rev. 10/89) is used to collect the information necessary to determine eligibility when adding a child.
- (5) CA 13
The "Caretaker Relative Agreement" (Rev. 10/86) is used to designate the caretaker relative as agreed by two persons who live in separate homes when both could qualify as the caretaker relative of a child.
- (6) CA 20
The "Statement of Facts Supporting Eligibility for Assistance -Redetermination" (Rev. 8/90) is used to collect the information necessary to determine eligibility at the time of the annual redetermination.

82-828 **OPTIONAL PERSONS (Continued)** **82-828**

- .22 Other Eligible Children Any other eligible children, including, but not limited to, a niece or nephew.
- .23 Essential Persons Any essential person who meets the requirements of Section 44-209.3.

[Previous cite: 44-205.5, 44-203.3, 44-118.11]

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: 42 USCA 606(a) and (b)(1); 45 CFR 206.10(a)(1)(vii) and (a)(2)(i), 45 CFR 233.20(a)(2)(vi), and 45 CFR 237.50(b)(3)(i) and (b)(4)(i); SSA-AT-80-32 and SSA-AT-86-01; and Section 11203, Welfare and Institutions Code.

82-832 **EXCLUDED PERSONS** **82-832**

- .1 Person Who Is Excluded By Law A person excluded from the AU by law is a person who:
 - (a) Child of AFDC-FC or Kin-GAP Child Is a child living with his/her minor parent who is receiving AFDC-FC or Kin-GAP.
 - (b) Citizenship/ Alienage Does not meet the citizenship/alien status requirements.
 - (c) Father of Unborn
 - .131 Is an unborn child's father who is living in the home with the pregnant woman and who is:
 - .131 Not the parent or caretaker relative of an eligible child, or
 - .132 Not an essential person.
 - (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) Other Aid Receives SSI/SSP, Refugee Repatriate Payment (RRP), Kin-GAP or AFDC-FC.
 - (f) Sponsored Noncitizen Is a sponsored noncitizen whose needs are being met by a sponsor's deemed income.

82-832	EXCLUDED PERSONS (Continued)	82-832
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| | <p>(g) Spouse of Eligible Child</p> <p>(h) Refugee Eligible for Alternative Project</p> <p>(i) Fleeing Felon</p> <p>(j) Violation of Probation or Parole</p> <p>(k) Convicted Drug Felon</p> | <p>Is a spouse of an eligible child, living with the child in the senior parent's home, when there is no child in common for whom deprivation exists.</p> <p>Is a refugee who is eligible for and required to participate in an alternative project implemented pursuant to Section 412(e)(7) of the federal Immigration and Nationality Act 8 USC 1522(e)(7).</p> <p>Is fleeing to avoid prosecution, or custody or confinement after conviction for a crime or attempt to commit a crime that is a felony. The existence of a warrant for arrest shall be presumed to be evidence of fleeing, unless rebutted by other evidence sufficient to prove that the individual had no knowledge that he/she is being sought by law enforcement.</p> <p>Is in violation of a condition of probation or parole. The initial offense for which probation or parole was ordered need not have been a felony.</p> <p>Has been convicted in a state or federal court of a felony that has as an element, the possession, use or distribution of a controlled substance. The conviction must be after December 31, 1997. Controlled substance is defined in Section 102(6) of the Controlled Substances Act (21 U.S.C. Section 802(6)) or Division 10 (commencing with Section 11000) of the Health and Safety Code. The term 'convicted' also includes a plea of guilty or nolo contendere.</p> |
| .2 | Sanctioned Persons | A person excluded from the AU due to a sanction, is: |
| .21 | Child/Spousal Support | A parent, pregnant woman, or caretaker relative who refuses to assign support rights. |

82-832	EXCLUDED PERSONS (Continued)	82-832
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| .22 | Citizenship | A person who fails to cooperate in the verification of his/her citizenship or alien status. |
| .23 | Welfare-to-Work | A non-exempt welfare-to-work participant who fails or refuses without good cause to meet program requirements, and: |
| .231 | | When the participant is a principal earner, the second parent is also ineligible unless he/she is participating in welfare-to-work activities. |
| .24 | Social Security Number | An applicant or recipient; or a child whose parent, caretaker relative, or legal guardian who: |
| .241 | | Refuses or fails to furnish an SSN or evidence of a completed application for an SSN, or |
| .242 | | Refuses or fails to cooperate in verifying an SSN. |
| .25 | Striking | A striker who is not a caretaker relative. |
| .26 | | Repealed by Manual Letter No. EAS-98-03, effective 7/1/98. |

[Previous cite: 44-206]

NOTE: Authority cited: Sections 10553, 10554, 11270, and 11369, Welfare and Institutions Code. Reference: 8 CFR 213a. and 299; 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.

