

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



January 16, 2007

Regulation Package #0705-12

CDSS MANUAL LETTER NO. EAS-06-03

TO: HOLDERS OF THE EAS MANUAL

**Regulation Package #0705-12****Effective 11/16/06****Sections 44-111 and 44-211**

This manual letter has been posted on the Office of Regulations Development website at [http://www.dss.cahwnet.gov/ord/Eligibilit\\_617.htm](http://www.dss.cahwnet.gov/ord/Eligibilit_617.htm).

These regulations implement 45 Code of Federal Regulations (CFR) Section 400, Subpart H, Child Welfare Services, in providing services under the Unaccompanied Refugee Minor Program. These reflect Unaccompanied Refugee Minor policies outlined in California's federally-approved State Plan. In accordance with 45 CFR 400.115 and Welfare and Institutions Code Section 300 or Probate Code Section 1500 or 1501, the foster family agency will establish protective legal custody for the child within 30 days of the child's arrival into the location of resettlement. Primary responsibility for the child's welfare is vested in Catholic Charities of San Jose, which ensures that the child receives the full range of child welfare benefits and services as provided to non-refugee children in foster care.

Existing regulations required amendments to provide direction regarding eligibility for certified victims of a severe form of trafficking to receive Refugee Cash Assistance (RCA) benefits. The Trafficking Victims Protection Act (TVPA) of 2000, Public Law (P.L.) 106-386 (8 United States Code 7105(b)(1)) makes victims of a severe form of trafficking of persons eligible for benefits and services to the same extent as refugees. The TVPA was reauthorized and amended by the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003, P.L. 108-193. The TVPRA also provides that certain family members of trafficking victims are eligible for benefits and services to the same extent as refugees effective December 19, 2003.

These regulations will exempt any income in-kind provided by a private non-profit organization as income. This will make the RCA provision consistent with CalWORKs as required by 45 CFR 400.66(a)(1).

These regulations will also repeal regulations which currently preclude recipients of RCA from receiving homeless assistance. The Office of Refugee Resettlement State Letter SL00-12 announced a substantial policy change that states asylees will be eligible for refugee assistance and services beginning on the date they are granted asylum. Because of the time it normally takes for an individual to apply for asylum and then proceed through the Immigration and Naturalization Service (INS) (now known as United States Citizenship and Immigration Services (USCIS)) adjudication process, most asylees do not have enough remaining time (of the eight months eligibility) to access and receive refugee cash and medical assistance and social services. Because asylees do not receive assistance from voluntary agencies, asylees may need homeless assistance. These regulations will allow RCA recipients to receive homeless assistance if they are otherwise eligible.

## **FILING INSTRUCTIONS**

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-06-02.

### Page(s)

392 and 393  
396 and 397  
435 and 436  
456 and 457

### Replace(s)

Pages 392 and 393  
Pages 396 and 397  
Pages 435 and 436  
Pages 456 and 457

Attachments

NH

<b>44-111</b>	<b>PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION AS INCOME (Continued)</b>	<b>44-111</b>
---------------	---	---------------

.44 Infrequent Income

- .441 Income that is received in prospectively budgeted months and is received too infrequently to be reasonably anticipated, shall be exempt from consideration, as allowed in Food Stamp Regulations, Section 63-502.2(d).

---

**HANDBOOK BEGINS HERE**

Food Stamp Regulations, Section 63-502.2(d) states, any prospectively budgeted income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of \$30 in a quarter, is excluded as income.

---

**HANDBOOK ENDS HERE**

---

.45 Income in Kind

.451 Home Produce

Home produce such as from garden, orchard, livestock, and poultry utilized by a recipient and his household for their own consumption is not income.

.452 Partial Items of Need

Income in kind for partial items of need is exempt.

.453 Offer of a Free Home

Except as provided in W&IC 11264, aid shall not be denied or discontinued for an otherwise eligible child who is offered a free home.

.454 Provided by a Private Nonprofit Organization

Any income in kind, whether a full or partial item of need, provided on the basis of need by a private nonprofit organization shall be exempt as income.

Private nonprofit organizations are religious, charitable, educational, or other organizations such as described in Section 501(c) of the Internal Revenue Code of 1954, which include but are not limited to the Salvation Army, Red Cross, and churches. (Actual tax exempt certification by IRS is not necessary.)

**44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION AS INCOME (Continued)** **44-111**

.46 Funds Received as a Result of the Settlement in the Underwood v. Harris Court Case

Retroactive subsidy payments received from the Department of Housing and Urban Development (HUD) which represent a reimbursement of increased tax and utility costs which were incurred in 1975 through 1977 (see Section 42-211.258(d) and 42-213.2(y) for treatment as property).

.47 Child/Spousal Support Disregard

The first \$50 per month of current child/spousal support paid to or on behalf of an assistance unit shall be disregarded when determining both eligibility and grant amount.

---

**HANDBOOK BEGINS HERE**

See Section 42-213.2(k).

---

**HANDBOOK ENDS HERE**

---

.471 When the child/spousal support payment is received by the county, the amount of the current support payment which is paid to the assistance unit shall be disregarded. This disregard is applied in the month in which the child/spousal support payment is received by the county for eligibility determination and applied in the month in which the disregard payment is received by the assistance unit, if different, for eligibility and grant determination.

.472 Section 44-111.472(MR) shall become inoperative and Section 44-111.472(QR) shall become operative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's QR/PB Declaration.

(MR) When a current child/spousal support payment is directly received by the assistance unit from the absent parent, the first \$50 of such payment is disregarded and the balance of the support payment is considered income to the assistance unit.

(QR) When a current child/spousal support payment is received or reasonably anticipated to be received by the assistance unit directly from the absent parent, the first \$50 of such payment is disregarded and the balance of the support payment is considered income to the AU.

---

**HANDBOOK BEGINS HERE**

(a) See Sections 82-520.4 and .5.

---

**HANDBOOK ENDS HERE**

---

**44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION AS INCOME (Continued) 44-111**

- j. PL 101-201 and PL 101-239 which exempt payments received from all Agent Orange settlements.
- k. PL 101-426 which exempts payments received under the Radiation Exposure Compensation Act.
- l. PL 101-508 which exempts Earned Income Credit (EIC) payments.
- m. PL 103-286 which exempts payment received as restitution made to victims of Nazi persecution.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, 11008.15, 11265.2, 11280, 11322.6(f)(3), 11157 (Ch. 439, Stats. of 2002), 11450.5, 11450.12, 11451.5, and 11451.7, Welfare and Institutions Code; 42 USC Section 602(g)(1)(E)(i); Section 8, Public Law 93-134; Section 2, Public Law 98-64; Section 13736, Public Law 103-66; Section 1, Public Law 100-286, Section 202(a), Public Law 100-485 and 20 USC 1087uu; 45 CFR 233.20(a)(3)(iv)(B), (a)(3)(xxi), 45 CFR 233.20(a)(4)(ii); (a)(4)(ii)(d); 45 CFR 233.20(a)(4)(ii)(p) and (q); 45 CFR 233.20(a)(11)(v)(C); 45 CFR 255.3(f)(1); 45 CFR 400.66; 45 CFR 401.12; Federal Action Transmittals ACF-AT-94-27 and 94-4 and FSA-IM-89-1.

**44-113 NET INCOME 44-113**

.1 Property

Net income from property (including that from property in which a life estate is held), produce or business enterprises is determined by deducting from gross income all normal items of expenses incident to its receipt. Principal payments on encumbrances are not considered a necessary item of expense. If property is sold, the interest portion of any payment received is income.

Interpretation -- Net income from property, crops and livestock is computed as follows:

Source	Computation
a. Rental of real property including that in which life estate held.	Deduct from gross rental the following expenses incident to receipt: <ul style="list-style-type: none"> <li>1. Taxes and assessments.</li> <li>2. Interest on encumbrance payments (do not deduct principal payments).</li> <li>3. Insurance.</li> <li>4. Utilities.</li> <li>5. Upkeep and major repairs.</li> </ul>

<b>44-113</b>	NET INCOME (Continued)	<b>44-113</b>
---------------	------------------------	---------------

If a complete dwelling unit is rented the county after consultation with the recipient (a) deducts the amount actually expended each month for upkeep and repairs; or (b) deducts 15% of the gross monthly rental plus \$4.17 a month.

Note: The above expenses are prorated on the same periodic basis as the periodic basis on which the rental is received (i.e., annually, quarterly, monthly, etc.). Multiply rental income received weekly by 4-1/3 to get monthly income.

Note: Under the ordinary life estate agreement, the life tenant is entitled to the use and/or income from the property and is responsible for the usual costs of ownership such as taxes, insurance, upkeep, etc. However, if the life estate agreement stipulates the remainderman is responsible for certain expenses, such payments do not represent income to the life tenant.

---

b.	Rental of rooms and Room and Board	See Section 44-113.212 for computing self-employment net income.
<hr/>		
c.	Sale of real property under contract of sale, title not passing.	The interest received is net income (principal payments represent conversion of property from real to personal property). Deduct any interest payments on prior encumbrances in determining net income from interest received from sale of real property under contract of sale.
<hr/>		
d.	Personal property (rental of trucks, equipment, etc.)	Deduct from gross rental all expense necessary to maintenance, etc.
<hr/>		
e.	Personal property (interest on money, stocks, bonds, etc.)	All interest received is net income, except interest on savings accounts as provided in W&IC 11009.

---

**44-211 SPECIAL NEEDS IN CALWORKS (Continued) 44-211**

- .222 The actual cost of special laundry. The county may allow \$3.00 per month without verification of actual cost by the recipient. An example of special laundry needs would be where a recipient is required to change and clean bedding or clothing more than usual because of a medical condition.
  - .223 The actual cost of employing someone to do the cooking, washing, ironing, household cleaning, and similar chore services for members of the FBU when the county verifies that the family caretaker is unable to perform any one or more of these functions, and that such duties cannot be performed without charge by persons in the household.
  - .224 The actual cost of special telephone service or equipment such as the cost of an amplifying device when a member of the household is handicapped by an auditory impairment.
  - .225 The actual costs of excessive use of utilities when the county verifies that the excessive use is required for a reason not common to a majority of recipients and is essential for their support. Excessive use of utilities means the FBU's share of the actual cost of utilities is in excess of the in-kind income values for utilities for that size FBU. The county may allow \$5.00 per month without verification of actual cost by the recipient.
- .23 Where a recurring special need also qualifies as an allowable service-connected expense pursuant to Section 10-305 or Chapter 30-500, the county may authorize any combination of such funds to meet the family's needs so long as there is no duplication in aid payment. When a special need is to be met from a combination of such funds, the allowance must be based on the actual costs and not the guidelines specified above.
- .3 Nonrecurring Special Need Payments
- .31 A payment for a nonrecurring special need shall be granted to an eligible AU when any of the following conditions exist:
    - .311 Household emergencies resulting from sudden and unusual circumstances beyond the AU's control. (See MPP 44-211.4.)
    - .312 Homelessness when the AU is seeking permanent housing. (See MPP 44-211.5.)
- (a) Repealed by Manual Letter No. EAS 06-03, effective 11/16/06

<b>44-211</b>	<b>SPECIAL NEEDS IN CALWORKS (Continued)</b>	<b>44-211</b>
---------------	--	---------------

- .32 An AU is ineligible to receive a nonrecurring special need payment if it has over \$100 in nonexempt liquid resources.
- .321 The county shall evaluate nonexempt liquid resources when an AU requests a nonrecurring special need payment for any of the following:
- (a) An emergency resulting from sudden and unusual circumstances beyond the AU's control (see Section 44-211.4);
  - (b) Homeless assistance, at the time the AU applies for such assistance but not during the incident of homelessness as defined in Section 44-211.513(b).
- .33 Liquid resources of \$100 or less shall not be considered for purposes of computing the nonrecurring special need payment.

---

**HANDBOOK BEGINS HERE**

See MPP 42-211.2 for definition of liquid resources; see MPP 40-129.21 for exceptions to the MPP 42-211.2 definitions.

---

**HANDBOOK ENDS HERE**

---

**.4 Emergencies Resulting from Sudden and Unusual Circumstances Beyond the AU's Control**

- .41 An AU is entitled to receive a nonrecurring special need payment to repair or replace clothing or household equipment; to provide assistance for damages to the home; or to pay for interim shelter when the AU's home was destroyed or made uninhabitable or inaccessible. (See MPP 44-211.42, .43, and .44 respectively.)
- .411 The loss or damage must have been caused by sudden and unusual circumstances beyond the AU's control.
- .412 The CWD shall determine the most feasible and economic method of repair or replacement including the provision of donated or used serviceable items.

<b>44-211</b>	<b>SPECIAL NEEDS IN CALWORKS (Continued)</b>	<b>44-211</b>
---------------	--	---------------

---

---

**HANDBOOK BEGINS HERE**

.65 A pregnancy special need payment is \$47 per month.

---

---

**HANDBOOK ENDS HERE**

---

---

NOTE: Authority cited: Sections 10553, 10554, 11209, and 11450(g), Welfare and Institutions Code; and Statutes of 1995, Chapter 307, Section 24 (AB 908). Reference: Sections 11056, 11265.1, 11265.2, 11265.3, 11266(a)(2), 11271, 11272, 11273, and 11273(b), 11450(a)(1), (b), and (c), 11450(f)(2)(A)(i), 11450(f)(2)(C), 11450(f)(2)(E)(i), (ii) and (iii), 11450.5, 11452.018(a), and 11453.2, Welfare and Institutions Code; 45 CFR 206.10(a)(1)(ii), 45 CFR 206.10(a)(8), 45 CFR 233.10(a)(1)(iv), 45 CFR 233.20(a)(2)(v)(A), 45 CFR 234.11, 45 CFR 234.60, 45 CFR 234.60(a)(2)-(11), and 45 CFR 400.52; and 42 U.S.C.A., Section 606(b).

<b>44-212</b>	<b>MINIMUM BASIC STANDARD OF ADEQUATE CARE</b>	<b>44-212</b>
---------------	--	---------------

.1 Definition -- The Minimum Basic Standard of Adequate Care is set forth in W&I Code Section 11452, as the amount which is necessary to provide an Assistance Unit with the following:

.11 Housing

.12 Clothing

.13 Food

.14 Utilities

.15 Items for household operation, education and incidentals, recreation, personal needs, and insurance.

.16 Essential medical, dental, or other remedial care not otherwise provided at public expense

.17 Has been deleted per Manual Letter No. 77-045.

.2 The Minimum Basic Standard of Adequate Care set forth in Welfare and Institutions Code Section 11452 and previously distributed to the counties for each size AU (see Chapter 82-800 for composition of the AU) is in Section 44-207.212.

NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code. Reference: 45 CFR 233.20(a)(1)(i) and Sections 10553, 10554, and 10604, Welfare and Institutions Code.

<b>44-213</b>	<b>MEDICAL NEEDS - GENERAL</b>	<b>44-213</b>
---------------	--------------------------------	---------------

Repealed by Manual Letter No. EAS-87-08, effective 8/6/87.

<b>44-215</b>	<b>PERSONS WHO DO NOT MEET REQUIREMENTS FOR INCLUSION IN THE FAMILY BUDGET UNIT</b>	<b>44-215</b>
---------------	---	---------------

Repealed by Manual Letter No. EAS-87-08, effective 8/6/87.

<b>44-217</b>	<b>SUBSTANDARD HOUSING</b>	<b>44-217</b>
---------------	----------------------------	---------------

Repealed by Manual Letter No. EAS-87-08, effective 8/6/87.

<b>44-223</b>	<b>A MOTHER IN A MATERNITY HOME</b>	<b>44-223</b>
---------------	-------------------------------------	---------------

Repealed by Manual Letter No. EAS-87-08, effective 8/6/87.

<b>44-267</b>	<b>SPECIAL NEED PAYMENT FOR CHILD'S RETURN HOME FROM FOSTER CARE</b>	<b>44-267</b>
---------------	--	---------------

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

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