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Regulation Package # 0310-04

CDSS MANUAL LETTER NO. EAS 10-03

TO: HOLDERS OF THE ELIGIBILITY AND ASSISTANCE STANDARDS MANUAL

**Regulation Package # 0310-04**

**Effective 7/1/10**

**Sections 42-302, 42-712, 42-713**

This manual letter has been posted on the Office of Regulations Development website at <http://www.dss.cahwnet.gov/ord/PG2306.htm>

Assembly Bill (AB) X4 4 (Chapter 4, Statutes of the Fourth Extraordinary Session of 2009) amends the California Work Opportunity and Responsibility to Kids (CalWORKs) Welfare-to-Work Program. The CalWORKs Welfare-to-Work Program is the employment and training component of CalWORKs, California's version of the federal Temporary Assistance for Needy Families (TANF) Program.

Federal welfare reform enacted the TANF program through the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) in 1996, limiting cash aid to a family with an adult to a total of five years. The intent of the Welfare-to-Work program is to provide employment and training services to the maximum possible number of the adult CalWORKs population to aid them in achieving economic self-sufficiency within this time frame.

The passage of the Budget Act of 2009 as well as AB X4 4 impacted the CalWORKs program significantly. The Budget Act included an approximate reduction of \$376 million to the CalWORKs single allocation in the 2009-10 budget year, and AB X4 4 enacted statutory changes which affect funding and exemptions in the CalWORKs program. This reduction, along with the overall increasing caseload for CalWORKs, will likely result in insufficient funding to provide the full range of Welfare-to-Work services to all current and new CalWORKs clients in the 2009-2010 and 2010-2011 fiscal years. In crafting AB X4 4, the intended goals of the Legislature were to allow for more effective utilization of limited resources for CalWORKs services, provide counties additional flexibility to address funding constraints, minimize disruption of Welfare-to-Work services for those clients already participating, and prioritize exemptions and good cause for new applicants.

In order to achieve these goals, the regulations establish two new, temporary CalWORKs exemptions and exemption requirements. The new exemptions apply to clients who are caring for young children and to clients who may be granted good cause from Welfare-to-Work participation due to a lack of supportive services. Clients who receive the exemption for young children will not be required to participate in Welfare-to-Work activities and will have their CalWORKs 60-month time clock stopped until they no longer meet these criteria, or until July 1, 2011, whichever comes first. Clients who receive the exemption because they were granted good cause from Welfare-to-Work participation due to a lack of supportive services will also have their CalWORKs 60-month time clock stopped until they no longer meet these criteria, or until July 1, 2011, whichever comes first.

These regulations will be considered at the Department's public hearing to be held on August 11, 2010.

### **FILING INSTRUCTIONS**

**Revisions to all manuals are indicated by a vertical line in the left margin.** The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Eligibility and Assistance Standards Manual changes was EAS-10-02.

<u>Page(s)</u>	<u>Replace(s)</u>
189.5 and 190	Pages 189.5 and 190
191.2	Page 191.2
193.2 and 193.3	Page 193.2 and 193.3
242 through 247	Pages 242 through 247

Attachment

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**42-302**      **60-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS** **42-302**  
(Continued)

(QR) Counting the 60-Month Limit Any month or partial month in which an adult is included in an AU that receives a cash grant, including Special Needs (see Section 44-211), shall count for the purposes of the 60-month time limit, except as provided in Sections 42-302.21 (Exempt Months) and 42-302.22 (Diversion Count).

(QR) Any overpayment month, (an entire month of aid in which the recipient was not entitled to cash aid), that is fully repaid shall not count for the purposes of the 60-month time limit.

.21 Exempt Months Any month in which any of the following conditions exist for any period during the month shall not count toward the 60-month limit as specified:

(a) Disability The individual is exempt from welfare-to-work participation requirements due to a verified disability that is expected to last at least 30 days.

(b) Providing Care The individual is exempt from welfare-to-work participation requirements due to:

(1) The need to care for an ill or incapacitated person residing in the home, and the caretaking responsibilities impair the individual's ability to be regularly employed or to participate in welfare-to-work activities.

(2) Being the nonparent caretaker of either a dependent child of the court, a Kin-GAP child, or, as determined by the county, a child who is at risk of placement in foster care. For this exemption to apply, the county must also determine that the caretaking responsibilities are beyond those considered normal day-to-day parenting responsibilities so that they impair the individual's ability to be regularly employed or to participate in the welfare-to-work activities.

(3) Being the parent or other relative who has primary responsibility for personally providing care to one child who is from 12 to 23 months of age, inclusive, or two or more children who are under six years of age. This paragraph shall become inoperative on July 1, 2011.

<b>42-302</b>	<b>60-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS</b>	<b>42-302</b>
	(Continued)	

	(h)	Living in Indian Country	The individual lived in Indian country, as defined by federal law, or an Alaskan native village, in which at least 50 percent of the adults living in the Indian country or in the village are not employed.
	(1)		Counties shall obtain the required information on unemployment rates through the governing body of each tribal land.
	(i)	Receiving Supportive Services	The individual is a former recipient of cash aid and is only receiving child care, case management or supportive services.
	(j)	Grant Amounts Less Than \$10	The recipient does not receive a cash aid payment for the month because the grant amount is less than \$10.
	(k)	Lack of Necessary Supportive Services	The individual is excused from participation for good cause due to lack of necessary supportive services, as specified in Section 42-713.21. This paragraph shall become inoperative on July 1, 2011.
.22		Diversion Count	Diversion payments as set forth in Section 81-215 count toward the 60-month time limit unless they are recouped as provided in Section 42-302.223(a) or unless part or all of the diversion period is exempt as provided in Section 42-302.21 et seq. Count the months as follows:
.221		Diversion Payment Month	The month in which a lump sum diversion payment is made counts as one month toward the 60-month time limit unless the diversion recipient applies for CalWORKs cash aid during the diversion period, as specified in Section 81-215.41, and is determined to be eligible for CalWORKs. In that case, the diversion payment is treated in accordance with Section 42-302.223.

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<b>42-302</b>	<b>60-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS</b>	<b>42-302</b>
	(Continued)	

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|     |                                      | (b) | A statement that the individual may need to provide documentation to substantiate some exemptions/exceptions.   |
|     |                                      | (c) | A statement of exemptions from the time limit that do not require a written request.  |
|     |                                      | (d) | A statement that the individual will be informed, in writing, whether the exemption/exception is granted or not and the reason if the exemption/exception is denied.  |
|     |                                      | (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 no later than 15 calendar days from the date of completed request for an exemption/exception pursuant to Section 42-302.3. The specified response time 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. Pursuant to MPP Section 40-107(a), the county shall assist the applicant/recipient in obtaining the necessary records to verify the exemption/exception.  |



<b>42-712</b>	<b>EXEMPTIONS FROM WELFARE-TO-WORK PARTICIPATION</b>	<b>42-712</b>
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(Continued)

- .452 For an aided nonparent caretaker relative to qualify for this exemption, the CWD shall determine that his or her caretaking responsibilities:
- (a) Are beyond those considered normal day-to-day parenting responsibilities, and
  - (b) Impair the caretaker relative's ability to be regularly employed or to participate in welfare-to-work activities.
- .46 Exemption Based on the Care of an Ill or Incapacitated Member of the Household
- .461 An individual is exempt from participating in welfare-to-work activities when his/her presence in the home is required because of the illness or incapacity of another member of the household.
- (a) For an individual to qualify for this exemption, the CWD shall determine that the caretaking responsibilities impair the ability of the individual to be regularly employed or to participate in welfare-to-work activities.
- .47 Exemption Based on the Care of a Child
- .471 The parent or other relative who has primary responsibility for personally providing care to a child six months of age or under is exempt from welfare-to-work participation.
- (a) An individual shall be eligible for the exemption in Section 42-712.47 only one time under the CalWORKs Program.
  - (b) On a case-by-case basis, the CWD may reduce the period of exemption to the first 12 weeks, or increase it to the first 12 months, after the birth or adoption of the child.
    - (1) The CWD shall establish criteria by which the period of exemption in Section 42-712.471 is reduced or extended.
      - (A) In making the determination to extend the period of exemption after the birth or adoption of a child, the CWD may consider the availability of child care, local labor market conditions, and other factors the CWD determines are applicable.
  - (c) The exemption in Section 42-712.47 shall not apply to a 19-year old custodial parent described in Section 42-711.31.

<b>42-712</b>	<b>EXEMPTIONS FROM WELFARE-TO-WORK PARTICIPATION</b>	<b>42-712</b>
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(Continued)

- .472 An individual who has previously received the exemption in Section 42-712.471 shall be exempt for a period of 12 weeks upon the birth or adoption of any subsequent children.
  - (a) The CWD may extend the period for an exemption in Section 42-712.472 to six months on a case-by-case basis.
    - (1) The CWD shall establish criteria by which the period specified in Section 42-712.472 is extended.
      - (A) In making the determination to extend the period of exemption after the birth or adoption of a child, the CWD may consider the availability of child care, local labor market conditions, and other factors the CWD determines are applicable.
  
- .473 In a family eligible for aid due to the unemployment of the principal wage earner, the exemption in Section 42-712.47 shall apply to only one parent.
  
- .474 The parent or other relative who has primary responsibility for personally providing care to one child who is from 12 to 23 months of age, inclusive, or two or more children who are under six years of age is exempt from welfare-to-work participation. This paragraph shall become inoperative on July 1, 2011.
  
- .48 Exemption Based on Pregnancy
  - .481 A woman who is pregnant is exempt from welfare-to-work participation if the pregnancy impairs her ability to be regularly employed or participate in welfare-to-work activities.
    - (a) The exemption based on pregnancy is supported by medical verification that the pregnancy impairs the woman's ability to be regularly employed or participate in welfare-to-work activities.
  
  - .482 An exemption based on a medically-verified pregnancy may also be granted when the CWD determines that participation will not readily lead to employment or that a training activity is not appropriate.
  
- .49 An individual is exempt if he/she is a full-time volunteer in the Volunteers in Service to America (VISTA) Program, as provided by Title I of the Federal Domestic Volunteer Act of 1973.
  - .491 This exemption is supported by either of the following:
    - (a) a copy of a Domestic Volunteer Earnings Statement or

<b>42-712</b>	<b>EXEMPTIONS FROM WELFARE-TO-WORK PARTICIPATION</b>	<b>42-712</b>
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(Continued)

- (b) a written verification from the VISTA sponsor or the Federal Region IX ACTION/VISTA Office.
- .5 Any individual who is not required to participate may volunteer to participate in welfare-to-work activities and may end that participation at any time without loss of eligibility for aid, provided his or her status has not changed in a way that requires participation.
  - .51 For purposes of Section 42-715.5, a volunteer participant is as follows:
    - .511 An individual who is exempt pursuant to Sections 42-712.41 through .49, but who volunteers to participate; or
    - .512 An individual who is not required to participate for reasons other than the exemptions described in Sections 42-712.41 through .49, but who volunteers to participate.

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- (a) For example, in a two-parent assistance unit, whose basis for aid is unemployment, the second parent is not required to participate when the first parent is meeting the required participation hours but may participate as a volunteer.

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- .6 Any month in which an individual is exempt from participation in welfare-to-work activities based on the following exemption criteria shall not be taken into consideration as a month of receipt of aid in computing the 60-month time limit described in Section 42-302. Other exemptions from the 60-month time limit are listed in Section 42-302.
  - .61 Being age 60 or older as described in Section 42-712.43;
  - .62 Having a disability as described in Section 42-712.44; or
  - .63 Having caretaking responsibilities that impair a recipient's ability to be regularly employed, as described in Sections 42-712.45 and .46.
  - .64 Being responsible for personally providing care to a child or children of a specific age, as described in Section 42-712.474. This paragraph shall become inoperative on July 1, 2011.
- .7 Renumbered to Section 42-712.6 by Manual Letter No. EAS-06-01, effective 4/3/06.

NOTE: Authority cited: Sections 10553, 10554, 10604, and 11369, Welfare and Institutions Code. Reference: Sections 10553, 10554, 10063(b), 11253.5, 11320, 11320.3, 11331.5(a), (b), (c), and (d), 11454, and 11454.5, Welfare and Institutions Code; and 42 U.S.C. 5044(f)(2).

<b>42-713</b>	<b>GOOD CAUSE FOR NOT PARTICIPATING</b>	<b>42-713</b>
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- .1 A recipient shall be excused from participation in welfare-to-work activities for good cause in accordance with Section 42-713.2, when the CWD determines there is a condition or other circumstance that temporarily prevents, or significantly impairs, the individual's ability to be regularly employed or to participate in welfare-to-work activities.
  - .11 The CWD shall review the continuing validity of the good cause determination as necessary, but at least every three months.
  - .12 The individual shall cooperate with the CWD and provide information, including written documentation, as required to complete the review.
- .2 Conditions that may be considered good cause for not participating in welfare-to-work activities include, but are not limited to, any of the following:
  - .21 Lack of necessary supportive services.
  - .22 The applicant or recipient is a victim of domestic abuse.
    - .221 CalWORKs Program requirements, including the time limit on receipt of assistance described in Section 42-302, and welfare-to-work requirements described in Section 42-711 may be waived, except as specified in Section 42-715.511, for an individual who is a victim of domestic abuse (as defined in Section 42-701.2(d)(3)) on a case-by-case basis, but only for as long as domestic abuse prevents the individual from obtaining employment or participating in welfare-to-work activities, in accordance with Section 42-715.
      - (a) The criteria for granting waivers shall include provisions that ensure:
        - (1) Applicants and recipients who are past or present victims of abuse are not placed at further risk or unfairly penalized by CalWORKs requirements and procedures;
        - (2) Program requirements are not created or applied in such a way as to encourage a victim to remain with the abuser; and
        - (3) Participation by CalWORKs recipients in welfare-to-work activities is encouraged, to the full extent of their abilities, including participation in counseling and treatment programs, as appropriate, to enable the recipient to obtain unsubsidized employment and move toward self-sufficiency.

**HANDBOOK BEGINS HERE**

- (b) Examples which may constitute good cause for waiving program requirements for victims of domestic abuse include, but are not limited to:
- (1) The participant is fleeing the abuser and is in temporary housing or is homeless;
  - (2) The participant has entered a shelter;
  - (3) The participant is concerned about the safety of his/her children;
  - (4) The participant is a party to a restraining order or divorce action against the abuser; or
  - (5) The participant and/or the children are undergoing counseling to cope with the effects of the abuse.

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- .23 Licensed or license-exempt child care is not reasonably available during the individual's hours of training or employment, including commuting time, or arrangements have broken down or have been interrupted for the following children:
- .231 A child 10 years of age or younger, or
  - .232 A child 11 years of age or older as described in Section 47-201.22 or .23, or
  - .233 A child who is in foster care or is an SSI recipient and who is not included in the assistance unit.
- .24 Good cause criteria in Section 42-713.23 includes the unavailability of suitable special needs child care for children with identified special needs including, but not limited to, disabilities or chronic illnesses.
- .25 For purposes of Sections 42-713.23 and 42-713.24, reasonably available means at least one appropriate, suitable, and affordable child care arrangement that is commonly available in the participant's community to a person who is not receiving aid, that is available to parents during the hours that they are required to participate in county-approved activities or employment, and is within a reasonable distance from the participant's home or work site.

<b>42-713</b>	<b>GOOD CAUSE FOR NOT PARTICIPATING</b> (Continued)	<b>42-713</b>
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- .251 Appropriate and suitable child care is child care that meets the needs of the child and the parent, and meets one of the following requirements:
  - (a) Child care that is licensed for the appropriate age group or special needs category.
  - (b) License exempt child care that meets Trustline clearance requirements, unless that child care is exempted from Trustline.
  - (c) Suitable child care provided by the parent, legal guardian, other member of the assistance unit, or an eligible provider as defined by Section 47-260.
    - (1) Informal child care is unsuitable where the individual(s) providing the care cannot be Trustline registered in accordance with Section 47-600 or who would otherwise be denied payment for child care services that are exempt from licensure, due to a violent felony conviction, in accordance with Section 47-620.2.
  
- .252 Affordable child care is child care where the unreimbursed cost to the family does not exceed the family fees established by the state in accordance with Sections 47-401.7 and .8.
  
- .253 Reasonable distance means the distance customarily traveled by working families in accessing child care services in the community.
  
- .3 An individual shall have good cause for not complying with program requirements if he or she meets the criteria described in Section 42-721.3.
  
- .4 An individual who is excused from welfare-to-work participation for good cause is subject to the 60-month time limit in Section 42-302.
  - .41 A CWD may waive the 60-month time limit for victims of domestic abuse as provided in Section 42-713.221(a).
  - .42 Repealed by Manual Letter No. EAS-06-01, effective 4/3/06.
  - .43 Effective July 28, 2009, any month in which an individual is excused from participation for good cause due to lack of supportive services, as specified in Section 42-713.21, shall not be counted toward the 60-month time limit. This paragraph shall become inoperative on July 1, 2011.

NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code. Reference: Sections 11320.3(b) and (f), 11323.2, 11325.23(c), 11454, 11454.5, 11495, and 11495.1, Welfare and Institutions Code; 42 U.S.C. 607(e)(2); and 45 CFR 261.15.