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Regulation Package #0310-04

CDSS MANUAL LETTER NO. EAS 10-06

TO: HOLDERS OF THE ELIGIBILITY AND ASSISTANCE STANDARDS MANUAL

Regulation Package # 0310-04

Effective 12/22/10

Sections 42-302, 42-712 and 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, emergency regulations were adopted effective July 1, 2010 which established two new, temporary CalWORKs exemptions. 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. This manual letter includes amendments made to the emergency regulations following the public hearing.

These regulations were considered at the Department's public hearing held on August 11, 2010 in Sacramento, California.

This manual letter also includes technical corrections made to recently discovered clerical errors in Sections 42-213.2, 44-314.2, and Handbook Section 89-110.31.

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-10-05.

<u>Page(s)</u>	<u>Replace(s)</u>
178 and 178.1	Pages 178 and 178.1
189.5 and 190	Pages 189.5 and 190
191.2	Page 191.2
242 through 245	Pages 242 through 245
477 and 478	Pages 477 and 478
926.1 and 927	Pages 926.1 and 927

Attachment

ST/EV

**NONLINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY
PROPERTY**

Regulations

42-213 (Cont.)

42-213 PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY WHICH MAY BE RETAINED (Continued) 42-213

(c) The net proceeds of the sale are determined by subtracting from the gross amount of the sale the costs verified by the county to be directly related to the sale of the property, such as:

- (1) Loans and liens of the seller that are secured by the property,
- (2) Title insurance fees paid by the seller,
- (3) Brokers fees paid by the seller,
- (4) Prepaid interest or loan processing fees (points) paid by the seller,
- (5) Appraisal fees paid by the seller,
- (6) Fees paid by the seller to advertise the property, i.e., newspaper aids and for sale signs.

.125 The county shall inform the applicant/recipient at the time this exemption is granted that it is time-limited; and, at the end of nine months the assistance unit will be ineligible if the property has not been sold and the combined value of real and personal property continues to exceed the property limit specified in Section 42-207.

.126 The county shall retain sufficient documentation to determine the amount of repayable aid that will be collectible when the property is sold.

.2 Personal Property and Vehicles to Be Excluded: The county shall determine personal property items and vehicles to be excluded in evaluating property in accordance with methods established under the Food Stamp Program (see Food Stamp regulations at Manual of Policies and Procedures Sections 63-501.3, .52, and .53) except as noted below.

.21 401(k), 403(b), 457, 529, IRA and ESA accounts shall be excluded for CalWORKs recipients.

.22 401(k), 403(b) and 457 accounts shall be excluded for CalWORKs applicants.

.23 Restricted accounts shall be excluded for CalWORKs recipients.

.231 Restricted Accounts

42-213 **PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY** **42-213**
WHICH MAY BE RETAINED (Continued)

(a) General

An AU which includes a recipient shall be allowed to retain cash reserves in one or more restricted accounts at a financial institution. There shall be no limit to the amount of money that can be saved in a restricted account.

(1) Additional Funds

The funds shall be in addition to the \$2,000 property limit specified in Section 42-207.2.

(b) Written Agreement

Before an account can be designated as "restricted," the caretaker relative shall sign an agreement with the county welfare department which sets forth the requirements, restrictions and penalties specified in Section 42-213.231.

(1) Advice

The written agreement shall include a statement which advises recipients to first retain resources close to the \$2,000 limit to pay for unexpected expenses or emergencies before they enter into a written agreement.

(c) Account Information

The AU shall provide verification to the county of the following information for each account within 30 calendar days from the date of the written agreement. Failure to comply will result in termination of the agreement.

(1) Names of Persons On the Account(s)

Names of persons as shown on the restricted account;

(2) Institution

Name and address of the financial institution;

(3) Number

Account number; and

(4) Balance and Activity

Account balance and activity since the date the agreement was signed.

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 is effective July 28, 2009 and shall become inoperative on July 1, 2011.

42-302	60-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS	42-302
	(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.
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	(1)	Counties shall obtain the required information on unemployment rates through the governing body of each tribal land.
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	(i) Receiving Supportive Services	The individual is a former recipient of cash aid and is only receiving child care, case management or supportive services.
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	(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.
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	(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 is effective July 28, 2009 and shall become inoperative on July 1, 2011.
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	.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:
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	.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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42-712	EXEMPTIONS FROM WELFARE-TO-WORK PARTICIPATION	42-712
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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.

42-712	EXEMPTIONS FROM WELFARE-TO-WORK PARTICIPATION	42-712
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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 is effective July 28, 2009 and 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

42-712	EXEMPTIONS FROM WELFARE-TO-WORK PARTICIPATION	42-712
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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.

HANDBOOK BEGINS HERE

- (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.

HANDBOOK ENDS HERE

- .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 is effective July 28, 2009 and 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).

42-713 GOOD CAUSE FOR NOT PARTICIPATING 42-713

- .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.

44-314	MAXIMUM FAMILY GRANT (MFG) (Continued)	44-314
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| (MR) | | For MFG purposes the following conditions will be considered a month in which the assistance unit (AU) did not receive cash aid: |
| (MR) | | Months in suspense as defined in Section 44-315.8(MR). |
| (MR) | | A month in which the AU is eligible for a zero basic grant (ZBG) as defined in Section 44-315.9; or |
| (MR) | | A month in which the reunification family does not receive a cash aid payment pursuant to Section 82-812.683. |
| (QR) | | For MFG purposes the following conditions will be considered a month in which the AU did not receive cash aid: |
| (QR) .111 | | A month in which the AU is eligible for a zero basic grant (ZBG) as defined in Section 44-315.9; or |
| (QR) .112 | | A month in which the reunification family does not receive a cash aid payment pursuant to Section 83-812.683. |
| .12 | Law Enforcement Agency | Law enforcement agency includes federal, state, and local law enforcement agencies. |
| .13 | Mental Health Professional | Mental health professional means a person who is licensed by the State of California to provide counseling services. |
| .14 | MFG Child | MFG child means the child, or children in the case of a multiple birth, that is not included in the AU size for the purpose of determining the MAP. |
| .15 | Received Aid | Received aid means received cash aid for himself/herself or on behalf of his/her eligible child(ren). This includes: |
| | .151 | A sanctioned parent who has a protective payee. |
| | .152 | A minor that receives aid as a child and who subsequently becomes a minor parent. |

44-314	MAXIMUM FAMILY GRANT (MFG) (Continued)	44-314
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- .2 MFG When a child is born into an AU that has received aid for at least ten months immediately prior to the birth, the child shall not be included in the AU size for the purpose of determining the MAP.

- .3 MFG Application The MFG applies when:
 - .31 Notice The AU has received written notice of the MFG at least ten months prior to the birth of the child, and

 - .32 No Break in Aid The AU has not had a break in aid of at least two consecutive months during the ten months immediately prior to the month of birth of the child.

- .4 Continue MFG The MFG continues to apply until the AU has not received aid for at least 24 consecutive months.

- .5 MFG Exemptions MFG shall not apply when:
 - .51 Rape The child was conceived as a result of an act of rape, as defined in Sections 261 and 262 of the Penal Code, and
 - .511 The rape has been reported to a law enforcement agency, medical or mental health professional or an organization that provides counseling to victims of rape prior to, or within three months after, the birth of the child.

 - (a) The recipient shall provide written verification from one of the entities listed above, that the incident of rape was reported and the date that the report was made.

89-110	MAXIMUM AID PAYMENT (MAP) LEVEL AND MAP RESTRICTION	89-110
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(Continued)

HANDBOOK BEGINS HERE

.3 Handbook Section 89-110.3(MR) shall become inoperative and Handbook Section 89-110.3(QR) shall become operative in a county on the date that QR/PB becomes effective in that county, pursuant to the Director's QR/PB Declaration.

(MR) Examples of Exempt and Nonexempt AUs, Financial Eligibility Determination, and Grant Calculation

(QR) Examples of Exempt and Nonexempt AUs, Financial Eligibility Determination, Quarterly MAP Status Determination, and Mid-Quarter MAP Status Changes

.31 Examples of Exempt and Nonexempt AUs

Example 1 – Exempt AU – Receipt of SDI and SSI/SSP

The family consists of two parents and their two children with eligibility based upon incapacity. One parent receives SDI and the second parent receives SSI/SSP. Since each parent receives one of the benefits specified in Section 89-110.22, the CWD uses the Exempt MAP.

Example 2 – Exempt AU – Disabled Pregnant Woman Only (PWO)

Because a pregnant woman is the only member of her AU and receives one of the benefits specified in 89-110.22, the CWD uses the Exempt MAP.

Example 3 – Nonexempt AU – Receipt of Private Disability Insurance

The AU consists of a parent and his aided child. The parent receives private insurance benefits from his employer; however, this income is not one of the benefits specified in Section 89-110.22 and the parent does not meet any other criterion to receive an exemption. The CWD uses the Nonexempt MAP.

Example 4 – Exempt AU – Unaided Non-Parent Caretaker Relative

An aunt is receiving aid for her nephew. The AU consists of the child only. The CWD uses the Exempt MAP as the aunt meets the exemption in 89-110.23; she is an unaided non-parent caretaker relative.

HANDBOOK CONTINUES

89-110	MAXIMUM AID PAYMENT (MAP) LEVEL AND MAP RESTRICTION	89-110
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(Continued)

HANDBOOK CONTINUES

Example 5 – Nonexempt AU – Parent with SSI/SSP Child

The AU consists of a mother and her child, who receives SSI/SSP. The mother does not receive one of the benefits specified in Section 89-110.22 or meet any other criterion to receive an exemption. Because the parent in the AU must meet the criteria in Section 89-110.21 and .22, the CWD uses the Nonexempt MAP.

Example 5a – Exempt AU – SSI/SSP Parent with Child.

The AU consists of a father who receives SSI/SSP and his child. The father receives one of the benefits in Section 89-110.22. The CWD uses the Exempt MAP.

Example 6 – Nonexempt AU – Minor Parent

The AU consists of a senior parent and her children. One of the senior parent's children is a 17-year-old minor parent. The minor parent's child is also in the AU. The senior parent receives SDI. The minor parent aided as an eligible child in the senior parent's case is considered to be a parent as specified in Section 89-110.251. The minor parent does not receive one of the benefits specified in Section 89-110.22 or meet any other criterion to receive an exemption. Because both senior parent and minor parent are considered parents in determining exempt status, and all parents in an AU must receive one of the benefits in Section 89-110.22, the CWD uses the Nonexempt MAP

Example 7 – Nonexempt AU – Aided Stepparent

The AU consists of a father, the father's children, and an aided stepmother. The stepmother is pregnant, but she is not the parent or caretaker relative of any of the aided children. The father receives temporary workers compensation (TWC). The aided stepmother does not receive one of the benefits specified in Section 89-110.22 or meet any other criterion to receive an exemption. The CWD uses the Nonexempt MAP as both the parent and the aided stepmother must meet an exemption as required by Section 89-110.211.

Example 8 – Exempt AU – Unaided Stepparent

The family consists of a mother, the mother's children and an unaided stepfather. The mother receives SSI/SSP and is not in the AU. The stepfather, who is not the parent of any of the aided children, is unaided; therefore, he is not considered in determining the AU's exemption status. The CWD uses the Exempt MAP.

HANDBOOK CONTINUES
