

Amend Section 40-107(f) to read:

Post-Hearing: Amend Section (f) (3) (A) to read:

40-107 COUNTY RESPONSIBILITY

40-107

(f) Provision of Informational Materials (Continued)

(3) Federal Earned Income Tax Credit (EITC)

(A) The CWD shall ask each CalWORKs recipient at their annual eligibility redetermination if he or she is eligible for and utilizing the federal EITC. If the recipient may be eligible for the EITC and does not use it, the CWD shall give the recipient available EITC informational material and encourage him or her to access the EITC.

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(B) To encourage CalWORKs recipients to maximize their use of the EITC, CWDs may inform them that:

1. The receipt of earned income may make them eligible for the federal EITC, retroactive EITC credits, and the Advance EITC. It may also add credits toward their future social security income.
2. The receipt of the federal EITC shall not affect their CalWORKs grants and is additional tax-free income.
3. A CalWORKs recipient that receives the federal EITC may invest these funds in an individual development account, 401(k) plan, 403(b) plan, Individual Retirement Account, 457 plan, 529 college savings plan, Coverdell Education Savings Account, or restricted account. Investments in these accounts will not impact the recipient's CalWORKs eligibility or benefits.

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(g) (Continued)

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

Reference: Sections 10613, 11209, 11265.1, 11268, 11322.5 (as adopted by AB 1078, Chapter 622, Statutes of 2007), 11323.3, 11324.8(a), (b) and (c)~~(f)(4)~~, 11454(b) and (e), 11495.1, and 11500~~(b)~~, 11502~~(b)~~, and 11511~~(a)~~, Welfare and Institutions Code; Section 37 of AB 444 (Chapter 1022, Statutes of 2002); 42 USC Sections 608(a)(7), ~~682(c)(2), (3), (4) and (5)~~; 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(a)(1) and (2); 45 CFR 205.55; ~~45 CFR 250.20; 45 CFR 250.40(a), (b), (c)(1) and (2); 45 CFR 255.1; 45 CFR 256.1(b)~~, and California Department of Health Services Manual Letter 77-1.

Amend Section 42-213.2 and renumber Section 89-130 to Section 41-213.231(a) et seq. to read:

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

.1 Real Property to Be Excluded (Continued)

.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

89-130 ~~RESTRICTED ACCOUNTS FOR RECIPIENTS~~

89-130

(a) General

An AU which includes a recipient shall be allowed to retain cash reserves ~~totaling up to a maximum of \$5,000~~ 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 ~~89-120~~ 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 ~~89-130~~ 42-213.231.

(c) Account Information (Continued)

(4) Balance and Activity (Continued)

(f) Interest Exemption

The county shall exempt interest payments for purposes of determining AFDC CalWORKs eligibility and grant amount when the interest is deposited directly into the account by the financial institution. (Continued)

(2) Erroneous Receipt (Continued)

- (A) Failure to deposit the interest within 30 calendar days shall result in a determination that a nonqualifying withdrawal has occurred, unless good cause exists for exceeding the 30-day limit as specified in Section ~~89-130(j)~~42-213.231(j).

(g) Qualifying Withdrawal (Continued)

(4) No Expense Incurred (Continued)

- ~~(A)~~ Failure to timely redeposit the funds shall result in a determination that a nonqualifying withdrawal has occurred, unless good cause exists as specified in Section ~~89-130(j)~~42-213.231(j).

(h) Verification

The AU shall provide verification of the following items within 30 calendar days from the date of expenditure:

~~(1)~~ ~~Balance~~

~~balance prior to the withdrawal;~~

~~(2)~~ Date and Amount (Continued)

~~(3)~~ Receipts (Continued)

(i) Nonqualifying Withdrawal

~~Except as specified in Section 89-130(p)(1),~~ The the county shall determine that a nonqualifying withdrawal has occurred when:

(1) Noncooperation

the AU fails to expend funds or to provide verification of a withdrawal or expenditure within the required time limit unless good cause, as specified in Section ~~89-130(j)~~42-213.231(j), exists for exceeding the time limit;

(2) Nonallowable Purpose

the AU withdraws or spends the funds for purposes or expenses other than those allowed under ~~this s~~Section 42-213.231(g); or

(3) Receipt of Interest Income (Continued)

(j) Good Cause

The county shall determine that good cause exists for exceeding the time limits specified at Sections ~~89-130~~42-213.231(f)(2), (g), and (h) when any of the following situations exist.

(1) Beyond AU's Control (Continued)

(l) Applying the Period of Ineligibility

Section ~~89-130~~42-213.231(l)(MR) shall become inoperative and Section ~~89-130(l)~~42-213.231(l)(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) (Continued)

(QR) (Continued)

~~(1) Section 89-130(l)(1)(MR) shall become inoperative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's QR/PB Declaration.~~

~~(MR) One Month of Ineligibility~~

~~When ineligibility exists for only one month, the county shall suspend aid on the first day of the month following the nonqualifying withdrawal.~~

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(m) Examples

(1) Example 1:

~~Handbook Section 89-130(m)(1)(MR) et seq. shall become inoperative and Handbook Section 89-130(m)(1)(QR) et seq. 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) Bank balance prior to 5/96~~
~~withdrawal: \$5,000~~
~~Amount withdrawn from account: \$4,500~~
~~Amount used to purchase home: \$3,000~~
~~Amount used to buy furniture: \$1,500~~

~~(A) Since the AU used a portion of the withdrawal on a nonallowable expenditure, the county shall calculate a period of ineligibility as follows:~~

- ~~1. \$5,000 — balance prior to withdrawal~~
~~3,000 — allowable expense for purchase of home~~
~~\$2,000 — remainder~~
- ~~2. Divide the remainder (\$2,000) by MBSAC + special needs for an AU of 3 (\$2,000 divided by \$715 = 2.79)~~
- ~~3. Round down the result to the nearest whole number (2).~~
- ~~4. The AU is ineligible for two months beginning 6/96 due to a nonqualifying withdrawal.~~

~~(QR) An AU of Three is in an April/May/June Quarter.~~

~~Bank balance prior to May~~
~~withdrawal: \$5,000~~
~~Amount withdrawn from account: \$4,500~~
~~Amount used to purchase home: \$3,000~~
~~Amount used to buy furniture: \$1,500~~

~~(A) (Continued)~~

~~(2) Handbook Section 89-130(m)(2)(MR) shall become inoperative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's QR/PB Declaration.~~

~~(MR) Example 2:~~

~~An AU of three is in the April/May/June Quarter and has the following property: (Continued)~~

- ~~(A) The AU wants to buy new furniture and withdraws all of their funds from their accounts, including the~~

restricted account, to pay for the purchases in May 5/96. The county determines that the AU made a nonqualifying withdrawal.

- (B) Although the AU's total property reserve prior to the nonqualifying withdrawal is under the \$2,000 property limit, the county will calculate a period of ineligibility as follows:

1.	Balance prior to nonqualifying withdrawal in <u>May 5/96</u>	\$1000
2.	Divide by MBSAC for 3 (\$715)	
3.	Result	1.3
4.	Round down to nearest whole number	1
	For number of months of ineligibility	

- ~~(C) Since the period of ineligibility is only for one month, aid for 6/96 will be suspended rather than discontinued. As the AU members will retain their recipient status, the higher property limits will continue to apply.~~

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- (n) Shortening The Period of Ineligibility

The county shall shorten the period of ineligibility when the AU reapplies for aid and the standard of need increases.

- (1) (Continued)

- (2) Calculation

To shorten the period of ineligibility due to an increase in the standard of need, the county shall:

- (A) (Continued)

- (B) Identify the original MBSAC plus any special needs allocated to the ineligible family unit and multiply it by the number of ineligible months prior to the increase. Subtract the total from the amount in Section ~~89-13042-213.231~~(n)(2)(A).

- (C) Divide the result calculated in Section ~~89-13042-213.231~~(n)(2)(B) by the increased standard of need. Round down the result to the nearest whole number.

- (D) The revised period of ineligibility is the final result in Section ~~89-13042-213.231~~(n)(2)(C) plus the number of ineligible months prior to the increase. (Continued)

~~(p) — When Balance Exceeds \$5,000~~

~~When the restricted account exceeds \$5,000 on the first day of a month, the county shall add the excess over the \$5,000 limit to the AU's other countable property.~~

~~(1) Interest Payments~~

~~When the \$5,000 limit is exceeded solely due to the deposit of interest payment(s), the county shall:~~

- ~~(A) allow the AU to withdraw the interest payment which caused the restricted account balance(s) to exceed the \$5,000 limit; and~~
- ~~(B) not calculate a period of ineligibility for the withdrawal of the interest.~~

~~(qp) Termination of the Written Agreement~~

~~The written agreement for the restricted account terminates when:~~

- ~~(1) the AU is discontinued from AFDC/CalWORKs; or~~
- ~~(2) (Continued)~~
- ~~(3) the AU does not provide timely verification of the account information as specified in Section ~~89-13042-213.231~~(c); or (Continued)~~

~~NOTE: Authority cited: Sections 10553, 10554, 10604, and 11155.2 (Ch. 270, Stats. 1997), Welfare and Institutions Code. Reference: Sections 10553, 10554, 11155, 11155.2 (Ch. 270, Stats. 1997), 11265.1, and 11265.2, Welfare and Institutions Code; 45 CFR 233.20(a)(3)(i)(B); and the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994.~~

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

Reference: Sections 10553, 10554, 11155 (~~Ch. 270, Stats. of 1997~~), 11155.2 (Chapter 622, Statutes of 2007), 11155.5, 11257, 11265.1, 11265.2, and 11450.5, Welfare and Institutions Code; Sidwell v. McMahan, United States District Court (E.D. Cal.) May 7, 1990, civil no. S-89-0445; Public Laws 97-458, 98-64, and 103-286; and Federal Action Transmittal 91-23, 45 CFR 233.20(a)(3)(i)(B).