

SHD Paraphrased Regulations - CalWORKs

010 County/Applicant/Recipient Responsibilities

010-1

The gathering of evidence necessary to make an CalWORKs (formerly AFDC) eligibility determination is a joint responsibility of the applicant and the county. The county shall inform the applicant what evidence is desired, why it is needed, and how it will be used and the applicant shall cooperate with the county to the fullest extent possible. When it is not possible for the applicant to obtain the necessary evidence, the county shall obtain it for him or her. (§40-157.21)

010-2

When evidence is conflicting, inconsistent or incomplete, the investigation shall be pursued to the point that the preponderance of evidence supports the determination regarding the CalWORKs (formerly AFDC) applicant's eligibility. (§40-157.14)

010-3

In the determination of CalWORKs (formerly AFDC) eligibility, the county must obtain acceptable evidence of the factors which affect eligibility. When the evidence does not exist, the applicant's sworn statement under penalty of perjury will be considered sufficient except for verification of citizenship, alien status, and pregnancy. (§40-115.22)

010-4

The county is responsible for referring all applicants and recipients who are apparently eligible for UIB to the Employment Development Department (EDD). The county shall discontinue or deny aid to an individual if he or she does not apply for or accept any UIB to which the EDD determines he or she may be eligible or if he or she did not, without good cause, meet all conditions of eligibility for UIB. If the individual involved is mandatorily included, aid shall be denied or discontinued for the entire family. If the individual involved is an optional person, aid shall be denied or discontinued for that individual and continued for the remainder of the family. (§§82-610.1 and 82-612)

010-4A

CalWORKs (formerly AFDC) benefits shall be discontinued when a mandatory member of the AU, who is "apparently eligible" for UIB has been referred by the county to EDD, fails to apply for or accept UIB, or fails without good cause to meet the conditions of eligibility for UIB. (§§82-612.1, .6)

010-4B

REVISED 8/04

Under MR/RB, CalWORKs (formerly AFDC) benefits shall be discontinued on the last day of the month in which a person who is required to apply for or accept UIB fails to do so, or fails to meet one of the conditions in Unemployment Insurance Code (UIC) §1253. (§82-612.3 effective prior to the implementation of QR/PB in the county)

Under QR/PB, CalWORKs shall be discontinued at the end of the QR Payment Quarter in which a person who is required to apply for or accept UIB fails to do so, or fails to meet one of the eligibility conditions in §82-612.7. (§82-612.3 effective July 1, 2004)

010-4C

A person is not "apparently eligible" for UIB, and shall not be referred to EDD by the county, when the person:

SHD Paraphrased Regulations - CalWORKs

010 County/Applicant/Recipient Responsibilities

1. Has not worked in employment covered by the UI compensation law in the past 19 months.
2. Is receiving UIB/Disability Insurance Benefits (DIB), has a UIB/DIB claim which is being processed, or whose UIB/DIB has been exhausted.
3. Is ill or injured (per §42-630.3).
4. Has previously been denied or discontinued from UIB, and has had no subsequent employment which would change such determination.
5. Is employed forty hours a week.
6. Is participating in a strike.

(§82-612.6)

010-5

The county representative is responsible for determining the issues raised by the hearing request. If the request for hearing does not clearly set forth the claimant's basis for appeal, the county representative shall immediately contact the claimant for clarification. The representative is then responsible for attempting to resolve the issues and for preparing a position statement regarding any issues which cannot be resolved. (§22-073.2)

010-6

Each case for which a state hearing request has been filed shall be assigned to a county representative who shall assume the major responsibility for preparing the case in accordance with the requirements of this Division and/or presenting it at the hearing. The county representative shall not have had immediate prior involvement in the case. (§22-073.13)

010-7

Prior to each hearing, the county representative shall prepare a typewritten statement. The statement shall summarize the facts of the case and set forth the regulatory justification for the county's action. If the issue concerns the amount of aid, grant adjustment, or a demand for repayment, the county representative must include in the position statement a complete final budget computation, month by month, for the period at issue. The county shall include, as attachments to the position statement, copies of documentary evidence and a list of witnesses which the county intends to use during the hearing. (§22-073.25)

010-7A REVISED 3/07

If a jurisdictional issue is raised at the hearing, the county must be prepare a position statement on both jurisdictional and substantive issues and both parties must be prepared to submit evidence on the jurisdictional and substantive issues unless prior to or at the hearing the parties agree to discuss only the jurisdictional issues, the case is bifurcated by the State Hearings Division or the case is dismissed without hearing prior to the hearing. (§22-049.53)

010-8A

The claimant may authorize a person to represent him/her during all aspects of the hearing process by signing and dating a written statement to that effect, or by stating at the state hearing that the person is so authorized. When the claimant is represented by an Authorized

SHD Paraphrased Regulations - CalWORKs

010 County/Applicant/Recipient Responsibilities

Representative (AR), the AR shall be furnished with a copy of all notices and decisions concerning the state hearing which are provided to the claimant. The county shall send correspondence simultaneously to the AR and the claimant. (§22-085)

010-9 REVISED 3/07

The county representative shall have authority at the state hearing to make binding agreements and stipulations on behalf of the County Welfare Department. (§22-073.37)

010-10

The county has the burden of going forward in the state hearing to support its determination. (§22-073.36)

010-11

At the time of application, all applicants shall be informed of the availability of lump sum diversion services. (§40-115.213)

010-12

State regulations require the counties to make certain regulations, laws, and other policy material available to the public. The counties must do the following:

- .1 One set of the regulations and handbook materials (including All-County Letters) of the Department of Social Services, the Welfare and Institutions Code (W&IC), the Health and Safety Code, and other laws relating to any form of public social service must be made available to the public during regular office hours in each central or district county office administering public social services and in each local or regional office of the department. (W&IC §10608)
- .2 These references shall be placed in the waiting or reception room or in a location available and convenient for public use.
- .3 A sign shall be prominently posted in each waiting/room or reception room in appropriate languages as follows:

"Rules and regulations of the State Department of Social Services are available for your use. Please ask for the materials or manuals you wish to see."
- .4 A signout book should be used to prevent loss of regulations or other materials for public use. The maintenance of the reference materials in a current and usable condition is a condition of compliance with the statute.

(Handbook §17-017)

010-13 REVISED 3/09

The California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) sets forth various retention periods for public assistance (PA) records. Generally, the regulations require that all public assistance (§23-353), social service (§10-119.2), and administrative claiming (§25-815.38) records and their supporting documents be retained for three years from the date the State submits the last expenditure report to the Federal Department of Health and Human Services (DHHS). Case record material must be retained for three years after the date the last State expenditure report has been made to DHHS for the period the records were last

SHD Paraphrased Regulations - CalWORKs
010 County/Applicant/Recipient Responsibilities

used to document eligibility. Sections 23-353 through 23-356 set forth the requirements for certain records which have retention periods which vary from the general rule. While the regulations must be reviewed for a complete listing, the most common occurrences are listed below. Some records require retention periods of more than three years. These include:

1. Records and their supporting documents must be retained when there is an open Federal or State audit.
2. Case records in which criminal or civil litigation was involved are to be retained for three years after the final claim is submitted for Federal reimbursement. These records include those which were used in the determination of eligibility, including denials, for the amount of retroactive benefits. Other records in the case must be retained in accordance with the requirements for public assistance records specified elsewhere in this letter.
3. The Form ABCD 278L, List of Authorizations to Start, Change, or Stop Aid Payments (or its equivalent), bearing the original initials or the original signature of the delegated county employee who authorized the specific action is identified as one of the records and supporting documents which must be retained in accordance with the retention period for the case record material.
4. The County shall retain Form ABCD 278L or its equivalent for a period of 10 years following closure in all cases where notification to do so by the Child Support Agency has been received.
5. County welfare warrants must be retained for five years. Warrant registers must be retained for five years unless a photographic record of the register has been made.
6. While not required by regulation, it is desirable that those AFDC/CalWORKs case records, and their supporting documents, identified by CDSS as federal sample quality control cases containing an error be retained until the federal sanction process is resolved for the applicable federal fiscal year.
7. Records necessary to sustain an intentional program violation disqualification should be retained through the life of the individuals.
8. Counties are required to track TANF and CalWORKs time in services and on aid. Case records must be retained and transmitted to the statewide automated time limit tracking system, and retained until the system is validated for completeness and accuracy.

Note: Effective December 1, 2004, the 18- or 24- month time limit was eliminated in accordance with changes in state law. From that date, case records pertaining to the 18- or 24- month time limit need only be retained beyond the regular retention timeframe, if they relate to another matter requiring extended retention.

Other records need not be retained in the case file as long as sufficient records/verifications are retained to meet federal quality control requirements for the AFDC/CalWORKs Program (AFDC Quality Control Manual Section 3000) and for the Food Stamp Program (FNS Quality Control Handbook 310, Chapter 5).

(All-County Letter (ACL) No. 06-33, October 30, 2006, superseding ACL No. 05-15)

SHD Paraphrased Regulations - CalWORKs
010 County/Applicant/Recipient Responsibilities

011-1 REVISED 3/07

It is the responsibility of all who are concerned with the administration of aid to do so with courtesy, consideration, and respect toward applicants and recipients and without attempting to elicit unnecessary information. Administrative duties should be performed in such a manner as to secure for every CalWORKs (formerly AFDC) applicant and recipient the amount of aid to which he or she is entitled under the law.

(§40-101.12)

012-1

Information relating to eligibility that was provided solely by the applicant/recipient contained in applications and other records made or kept by the county in connection with the administration of the PA Program shall be open to inspection by the applicant/recipient or his/her AR. (§19-005.1)

012-2

In conjunction with a state hearing, the applicant/recipient or his/her attorney or AR may inspect the case records including the entire case narrative relating to the applicant or recipient which are held by the CDSS, CDHS, or any agency supervised by CDSS with the following exceptions listed below in §19-006. (§19-005.4)

Portions of the applicant/recipient's record which would qualify as privileged communications as defined by the Evidence Code are not to be released to the applicant/recipient. (§19-006)

012-3

State law provides that:

“Notwithstanding the provisions of §10850, factual information relating to eligibility provided solely by the public assistance recipient contained in applications and records made or kept by any public officer or agency in connection with the administration of any public assistance program shall be open for inspection by the recipient to which the information relates and by any other person authorized in writing by such recipient. The written authorization shall be dated and signed by such recipient and shall expire one year from the date of execution. In the event of any hearing under the provisions of this division, the attorney or authorized representative of the applicant or recipient shall be entitled to inspect the case record relating to the applicant or recipient prior to, as well as during, the hearing.

“No list or names obtained through such access to such records or applications as provided in this section shall be used for any commercial or political purposes.”

(W&IC §10850.2)

012-4 ADDED 3/09

Applicants, recipients and their authorized representatives are entitled to have access to their case records. If counties' automated systems are not set up to allow access to an applicant's or recipient's electronic case record, counties must use a manual workaround.

If automated systems are not programmed to fully comply with federal and state policies in all

SHD Paraphrased Regulations - CalWORKs
010 County/Applicant/Recipient Responsibilities

program areas, counties must utilize manual workarounds to achieve such compliance. (All County Letter 07-29, August 17, 2007)

012-4A ADDED 3/09

Any information provided by the applicant/recipient or his/her authorized representative or for which the applicant/recipient consented to release to the county must be shown to the applicant/recipient and/or his/her authorized representative. For example, the individual is entitled to see school attendance information, letters or records regarding attendance at Welfare to Work activities, notes of the case worker or supervisor he/she has spoken or met with, 60-month time limits and related county documents.

Privileged information exists only if information about the applicant/recipient comes to the county from a third party, without the applicant/recipient's permission. Privileged information includes but are not limited to the whereabouts of the absent parent, and private information concerning the status of children who might be removed from the home by Children's Protective Services among other things, (All County Letter 07-29, August 17, 2007)

012-4B ADDED 3/09

The county shall reproduce without charge, or at a charge related to the cost of reproduction, the specific policy materials, including regulations, necessary for an applicant or recipient, or his/her authorized representative, to determine whether a state hearing should be requested or to prepare for a state hearing. (§22-051.3)

In the Food Stamp Program, such material shall be made available to the household or its authorized representative at no charge. (§22-051.31)

If an applicant or recipient requests copies of non-privileged documents from the case record for a purpose not related to a state hearing, regulations do not prohibit a charge for the cost of photocopying. (All County Letter 07-29, August 17, 2007)

013-1

County Welfare Departments (formerly agencies) may not provide aid, benefits or services to an individual or group which is different than that provided to others, on the basis of race, color, national origin, religion, political affiliation, marital status, sex, age or disability (formerly handicap). (§21-109.1, revised effective June 5, 1996)

If a complaint of discrimination arises during a state hearing, the Administrative Law Judge shall remand the complaint to the CDSS Civil Rights Bureau to be handled in accordance with Division 21 regulations. (§21-203.11)

013-2

Forms or other written material required for the provision of aid or services shall be available and offered to the applicant/recipient in the individual's primary language when such forms and other written material are provided by the CDSS. When such forms and other written material contain spaces in which the agency is to insert information, this inserted information shall be in the individual's primary language. (§21-115.2)

In order to ensure that every non-English/limited English speaking client receives equal access to all programs and services, county welfare departments are reminded that they must comply with §21-115.2 (All-County Letter (ACL) No. 00-03, January 5, 2000)

SHD Paraphrased Regulations - CalWORKs
010 County/Applicant/Recipient Responsibilities

A list of forms which have been translated into languages other than English is sent to counties by CDSS on a regular basis. Counties are required to stock all forms that have been translated by CDSS even if there have been no requests. (ACL No. 92-90, October 15, 1992)

013-2A

On January 19, 1976, the CDSS (formerly the State Department of Benefit Payments) agreed to translate necessary forms and written materials into the applicants'/recipients' primary language when those applicants/recipients constituted a substantial number (i.e., five percent or more of the applicant/recipient population) within the particular county or at the particular location (i.e., county office). (*Asociacion Mixta Progresista v. U.S. Department of Health, Education and Welfare*, Settlement and Stipulation to Dismissal, U.S.D.C. (N.D. Cal))

013-2B ADDED 6/04

There are county responsibilities in providing language services in the following six areas:

1. **Bilingual Staffing:** Per MPP §21-115.1, counties are required to have qualified and bilingual public contact staff who speak languages spoken by a substantial number of clients and who serve those clients. A substantial number is five percent of the clients served in a program at an office.
2. **Interpreter Services:** Per §21-115.15 and .16, when a non or limited English speaking population is less than a substantial number in a program at a location, counties must offer and provide interpreter services, upon request in the language the client has specified for oral communication.
3. **Minors Used as Interpreters:** Per § 21-115.16, counties are prohibited from using minor children as interpreters except temporarily under extenuating circumstances or at the specific request of the client.
4. **Use of Translated Documents:** Per §21-115.2, when a county uses a form, notice or other written material required by CDSS and that translated form, notice or other written material is provided by CDSS, the county must use such form, notice or other written material regardless of the number of non-or limited English speaking clients served by the county.
5. **Informing Signs:** Per §§21-107.211 and .212, counties must post a sign that inform clients that they may request assistance in their primary language.
6. **Documentation:** Per §21-116.2, counties are required to ask clients their preferred language for oral and written communication and document the preferred language in the client's file.

(All-County Letter 03-56, October 29, 2003)

013-2C ADDED 7/06

MPP §21-115.2 states: "Forms and other written material required for the provision of aid or services shall be available and offered to the applicant/recipient in the individual's primary language when such forms and other written material are provided by CDSS".

SHD Paraphrased Regulations - CalWORKs

010 County/Applicant/Recipient Responsibilities

This means that if an individual has requested written communications in his or her primary language and CDSS has made a form or notice available to the counties in that language, then the county must provide the CDSS translation to the individual, even if the translation is not available through the county's automated welfare eligibility system.

MPP §21-201.211 states that counties are required to have the applicant/recipient self-declare his/her primary language. For purposes of provision of language services, "primary language" means the applicant's/recipient's preferred language for oral and written communication. Applicants/recipients may prefer a different language for oral and written communications.

MPP §21-116 requires the applicant's/recipient's preferred language to be documented. This documentation is required in every case file, such as eligibility, welfare-to-work, and services whether the case file is paper or automated.

(ACIN I-09-06, February 17, 2006)

013-2D ADDED 3/08

Counties must document that interpretive services were provided and/or offered at each client contact. The documentation should record that interpretive services are offered or rendered, the nature of that service, and the name of the person who provided interpretive services. (ACIN I-02-08, January 22, 2008)

013-3

In cases involving allegations of discrimination, the case shall be remanded to the county for preparation of a report in accord with §21-203. (§22-062.5)

013-4

The Special Investigative Unit (SIU) shall have the authority to investigate any activity which may constitute welfare fraud. The SIU shall conduct all investigations in compliance with due process of law and so as not to infringe the constitutional rights of applicants and recipients. Home visits for the purposes of investigation may be made during reasonable hours of normal family activity. Mass or indiscriminate home visits are prohibited. Any interviews with recipients or possible witnesses shall be conducted without threats, duress, force, false showing of authority or other misrepresentation. Search of premises or removal of physical items of evidence of fraud is prohibited without a valid legal process or the permission of the recipient upon full appraisal of his or her rights. It is incumbent upon SIU staff to conduct themselves with courtesy and with respect for the rights of all persons involved. (§20-007.3)

013-5

On January 19, 2001 the United States Department of Health and Human Services (HHS) Office for Civil Rights (OCR) issued policy guidance on the prohibition of discrimination on the basis of disability as stated in Section 504 and Title II of ADA in the administration of the Temporary Assistance for Needy Families (TANF) program (Manual of Policy and Procedures Division 21-101).

The California Fair Employment and Housing Act (FEHA) was significantly changed effective January 1, 2001 to provide greater protection to people with disabilities and to expand what is considered a disability.

The inclusion of these civil rights protections ensures equal opportunity for persons with

SHD Paraphrased Regulations - CalWORKs
010 County/Applicant/Recipient Responsibilities

disabilities to benefit from all aspects of welfare reform, including initial access to programs and to proper supportive services needed to enable such individuals to work and keep their families healthy and intact.

Title II of ADA, §504 defines a “disability” with respect to an individual to mean “a physical or mental impairment that substantially limits one or more of the major life activities of such individual.” FEHA defines a disability as a physical or mental impairment (without consideration of mitigation) which limits a major life activity. The definition under FEHA is much broader and means that many more people qualify as disabled under the state law.

Title II of ADA, §504, and FEHA require recipient agencies (counties) to adopt non-discriminatory methods of administration and to ensure equal access to individuals with disabilities by providing appropriate services and modifying policies, practices and procedures to provide such access unless these modifications would fundamentally alter the nature of the services, programs, or activities. The county is responsible for identifying disabled beneficiaries and assessing any barriers to employment. Where necessary, the county must remove those barriers to ensure that equal opportunities are provided to individuals with disabilities. This can be achieved by providing (1) individualized treatment when necessary and (2) effective and meaningful opportunities to assist the disabled in becoming self-sufficient.

Individualized treatment means that individuals with disabilities are treated on a case-by-case basis consistent with the facts and objective evidence. Moreover, individuals with and without disabilities must be afforded the opportunity to benefit equally from Welfare-to-Work (WTW) programs and services. Therefore, counties must provide appropriate reasonable accommodations, auxiliary aids and services to ensure communication and program accessibility. Counties should examine their methods of program administration from application to training, education and employment to ensure that individuals with disabilities have an equal opportunity to benefit from the WTW programs.

(All-County Letter No. 01-42, July 30, 2001)

013-6 ADDED 3/07

A “Language-Compliant Notice” is a notice of action that meets the applicable requirement in (a) or (b) below:

- (a) For notices of action provided by the California Department of Social Services (CDSS) in the claimant's primary language:

A written notice of action that complies with the requirements of Section 21-115.2 for a claimant who chose to receive written communications offered in his/her primary language pursuant to Section 21-116.21. There shall be a rebuttable presumption that a claimant chose to receive written communications offered in the claimant's primary language if the claimant identified a primary language other than English to the county pursuant to Section 21-201.211.

- (b) For CDSS notices of action that CDSS does not provide in the claimant's primary language:

The county must offer and provide interpretive services for the notice of action if either of the following applies:

SHD Paraphrased Regulations - CalWORKs
010 County/Applicant/Recipient Responsibilities

- (1) The claimant contacts the county about that notice of action prior to the deadline for a timely request for hearing on an adequate notice of action and indicates a need for interpretive services; or
- (2) The claimant previously identified a primary language other than English to the county and contacts the county about that notice of action prior to the deadline for a timely request for hearing on an adequate notice of action.

(§22-001(l)(1) effective January 24, 2007)

013-6A ADDED 3/07

A request for state hearing must be filed within 90 days of the action or inaction with which the claimant is dissatisfied. In the Food Stamp Program, the appropriate time limits are set forth in §§63-802.4 and 63-804.5. If the claimant received an adequate and language-compliant notice of the action, the date of the action is the date the notice was mailed or given to the claimant. If adequate notice was required but not provided, or if the notice is not adequate and/or language-compliant, any hearing request (including an otherwise untimely hearing request) shall be deemed a timely hearing request (§22-009.1 revised effective January 24, 2007).

The references to language-compliant notices only apply to notices of action issued after January 24, 2007 when these regulations were filed with the Secretary of State) (§22-901)

014-1

The county is required to assist CalWORKs (formerly AFDC) applicants or recipients in understanding their rights and responsibilities in relation to application for aid, evaluating their capacity to discharge their responsibilities, assisting them as needed in establishing their eligibility and helping them to realize the maximum personal independence of which they are capable.

Applicants shall be informed that they may apply for FS at the same time they apply for CalWORKs, and that if they do so they have the right to file a joint application and have a single interview for both programs. (§40-107.1)

014-2

The county shall strive toward providing persons who file a complaint with prompt, simple and precise explanations of its actions to assure maximum understanding of such actions. The county is also responsible for administratively providing a process through which the individual will receive an appropriate explanation or a resolution of his or her problem. (§22-109.1)

014-3

When an alien applicant is not fluent in English, the county shall provide an understandable explanation of documentation requirements in a language in which he/she is fluent. (§42-435)

014-4

Prior to approving CalWORKs aid, every applicant shall be informed of the availability of lump sum diversion services to resolve the circumstances that led the family to apply for assistance. (W&IC §11265(a), effective January 1, 1998; 82-215.2, effective July 1, 1998)

SHD Paraphrased Regulations - CalWORKs

010 County/Applicant/Recipient Responsibilities

014-5

Program staff and program supervisors are responsible for determining eligibility and the correct benefit amount for all recipients. They must ensure that applicants and recipients understand their responsibility for providing correct and complete data and for promptly reporting facts required for the correct determination of eligibility and the benefit amount. (§20-005.311)

Program staff are also responsible for taking prompt action on information received and for relating information received which may affect future eligibility or need. (§20-005.312)

When it is known that recipients have a problem in reporting changes, more frequent contact may minimize the problem when there is reasonable doubt as to eligibility or benefit level. This type of follow-up of information to prevent possible fraudulent action by the recipient is a recognized "helping" process for which program staff are responsible. (§20-005.313)

014-6

The county shall inform all persons required to provide fingerprint and photo images that the images will be used only to prevent or prosecute welfare fraud. (§40-105.342, effective January 1, 1998)

014-7 REVISED 7/06

When there are laws or CDSS regulations which authorize counties to adopt specific standards which affect an applicant's or recipient's eligibility, grant amount, or welfare-to-work (WTW) activities, including supportive services, these standards shall be in writing and made available to the public on request. (§11-501.3, effective February 10, 1999; All-County Letter (ACL) No. 02-03, January 18, 2002) These county standards must be in compliance with translation requirements. (§21-115; ACL No. 00-08, January 3, 2000)

Examples of such mandated written standards include but are not limited to: (1) Definitions of what constitutes regular school attendance and good cause criteria under §40-105.5; extending the work exemption based on caring for a young child under § and 42-712.47; diversion program requirements under §81-215.32; child care or other required activities for children not in the AU under §§47-201.12 and 47-401.45; and continuing case management and/or supportive services for former recipients, under §42-717.1. (Handbook §11-501.3) Approximately 15 other examples of mandated written standards have been set forth by the CDSS. (§11-501.3; ACL No. 00-08)

014-7A

In addition to being legally required by §11-501.3, written policies and procedures: Will ensure that county staff, applicants and recipients, and other interested parties have knowledge of applicable program rules; promote equitable and uniform treatment of clients; assist in demonstrating that county actions are not arbitrary and capricious; and serve to support county actions in State hearings. To be effective, these policies and procedures must contain sufficient details so that the county's criteria can be clearly understood. (All-County Letter No. 00-08, January 3, 2000)

014-8

Income maintenance staff shall be continuously responsible for making and recording decisions on eligibility, and for maintaining and recording correct grant determinations in public assistance cases and share of cost determinations in medically needy share of cost cases. (Manual of Policy and Procedures (MPP) §§11-501.1, .2)

SHD Paraphrased Regulations - CalWORKs
010 County/Applicant/Recipient Responsibilities

014-9

The CDSS issued an All-County Information Notice (ACIN) to remind county welfare departments (CWDs) of the importance of continuing Medi-Cal and Food Stamp benefits to families that remain eligible for these programs.

CWDs are required by statute (W&IC §§11004 and 11057) and directed by regulation (e.g., §§40-103.44, 40-109.3, 40-171.2, 40-181.1(h), 40-183, 81-215.332) to identify service needs of applicants and recipients and to provide prompt referral to those services. Any required additional investigation necessary to determine eligibility must be completed promptly so that there is no interruption in aid benefits to the family.

Referral to the Medi-Cal and Food Stamp programs must occur for all denied or discontinued CalWORKs cases for a determination of continued eligibility in those programs. Continuation of benefits is also required when the individual is approved for Diversion Assistance and the CalWORKs application is denied.

(ACIN No. I-32-01, May 10, 2001)

015-1

During the determination of initial and continuing CalWORKs (formerly AFDC) eligibility, the applicant shall assume as much responsibility as he or she can within his or her physical, emotional, educational or other limitations. This responsibility includes completing or participating in the completion of all documents required in the application process and in making available to the county all documents that are in his or her possession which are needed to determine eligibility or ineligibility. (§40-105.1)

015-1A ADDED 8/04

Applicants shall report within five calendar days of the occurrence, any change in facts material to his/her eligibility and recipients shall report within ten days calendar days of the occurrence any change required to be reported during the quarter. (§40-105.14 effective July 1, 2004)

015-1B ADDED 6/04

The county shall be responsible for continuing to determine eligibility to insure payment only to eligible recipients in the correct amount, to assist recipients to meet their financial and service needs as fully as possible, and to make maximum use of their resources and capabilities. (§40-181.1(a))

015-1C ADDED 8/04

Eligibility regarding deprivation, household/AU composition, property, and the transfer of assets for less than fair market value shall only be determined on a quarterly basis based on the information reported on the QR 7. The county shall compare information reported on the QR 7 with mid-quarter recipient reports for accuracy. (§40-181(a)(1) effective July 1, 2004)

015-2

If the CalWORKs (formerly AFDC) applicant or recipient is able to assist in resolving incomplete, unclear or inconsistent statements on the CA 2 form or is able to assist in the evidence-gathering process but refuses to do either or both, the application shall be denied. (§40-157.3)

SHD Paraphrased Regulations - CalWORKs

010 County/Applicant/Recipient Responsibilities

015-2A

During the application process, the county shall require only that evidence necessary to determine past or present eligibility for aid. (§40-126.31)

015-2B

Within ten calendar days of application, the county shall provide written notice to the applicant of the required evidence necessary to determine eligibility. (§40-126.32)

The county shall pay a third-party fee to obtain existing evidence of eligibility if that is necessary. (§40-126.332)

015-2C

The county shall document in the case file an applicant's failure to make a good faith effort in obtaining necessary evidence of eligibility. The county shall not deny an application for failure to provide evidence of eligibility if the county has determined the applicant is continuing to cooperate by attempting to obtain the necessary evidence. (§§40-126.334 and .34)

015-2D

A county shall rescind a denial based on the applicant's failure to cooperate if the county receives the needed evidence within 30 calendar days of the date of denial. The Notice of Action must advise the applicant of the right to have the denial rescinded if he/she submits evidence within 30 calendar days of the notice. (§§40-126.342 and .343)

015-2E

A denial based on a refusal to cooperate shall only be made as the result of the applicant's active refusal, either orally or in writing, to cooperate in the investigation of eligibility. (§40-126.344)

015-2F ADDED 6/04

At application, both parents in a two-parent family are considered applicants and must attend a face-to-face interview. A stepparent must attend the interview only if he/she is aided as an optional person. Both parents are equally accountable for accurate reporting and for repayment of overpayments.

At annual redetermination there is no face-to-face interview requirement, although there is an interview requirement. That interview may occur at a home visit.

Children are not required to attend a face-to-face interview. A county may however require a face-to-face interview or home visit to clarify inconsistent information regarding children in the home.

The face-to-face interview requirement for applicants may not be waived in CalWORKs.

(All-County Information Notice I-15-03, March 28, 2003)

015-3

Documents or evidence required of the CalWORKs (formerly AFDC) applicant or recipient to support the initial or continuing determination of eligibility must be received by the county on or before the appropriate deadline established by the county. When the deadline falls on a Saturday, Sunday or holiday, the document(s) or evidence received on the first business day

SHD Paraphrased Regulations - CalWORKs

010 County/Applicant/Recipient Responsibilities

following the weekend or holiday shall be treated as if it had been received on the appointed day. (§40-181.1(k))

015-4

CalWORKs (formerly AFDC) applicants and recipients are responsible for taking all actions necessary to obtain unconditionally available income. Income shall be considered unconditionally available if the applicant or recipient has only to claim or accept the income. If a person refuses to apply for or accept such income, that person shall be rendered ineligible for aid by such refusal. (§82-610)

015-4A

Aid shall be discontinued for the entire AU when a mandatorily included member of the AU fails to seek or accept potentially available income. If an optional member of the AU fails to seek or accept such income, that member shall become ineligible. (§82-610.1)

015-4B

Potentially available income is any income the recipient is entitled to receive. It includes social insurance benefits, military benefits, retirement benefits, insurance benefits, worker's compensation and debts. (§§82-610.3, .4)

015-4C

The CalWORKs principal earner (PE), who is "apparently eligible" for UIB (in terms of §82-610) shall apply for and accept any UIB to which he/she is entitled, when referred to EDD by the County Welfare Department. When the PE does not meet this requirement, deprivation based on unemployment does not exist. The requirement is considered to be met on the date of application as long as it is met by the date of authorization of aid. (§41-440.23)

015-5

The county is responsible for determining good cause when an apparently eligible CalWORKs (formerly AFDC) applicant or recipient does not meet all conditions of eligibility for Unemployment Insurance Benefits (UIB). Good cause for failing to meet conditions of eligibility for UIB includes, but is not limited to:

- (1) Illness or incapacity;
- (2) Court-required appearance or incarceration;
- (3) Emergency family crisis or sudden change of immediate family circumstances;
- (4) Breakdown in transportation arrangements with no readily accessible alternate means of transportation;
- (5) Inclement weather which prevented the registrant or other person similarly situated from traveling to, or participating in, the prescribed activity;
- (6) Breakdown in the child care arrangement or availability of child care not suited for special needs of the child for whom it is intended; handicapped or retarded child;
- (7) Lack of other necessary social services, even though not specifically included in the local or state Work Incentive Program plan;

SHD Paraphrased Regulations - CalWORKs
010 County/Applicant/Recipient Responsibilities

- (8) The assignment or job referral does not meet the appropriate work and training criteria;
- (9) Refusal to accept major medical services even if such refusal precludes participation in the program.

(§82-614.2)

015-7

A refusal to cooperate in a quality control (QC) review without good cause by an individual in the AU or a non-needy caretaker relative shall result in discontinuance for the entire AU. (§40-203.1)

Good cause includes but is not limited to illness or incapacity, court required appearances or temporary incarceration, family crisis or other change in circumstances, or other substantial and compelling reasons. (§40-209.2)

015-8

When the minor parent who is not exempt from the Minor Parent Requirement refuses or fails to cooperate in obtaining verification of the adult's consent or refusal to act as payee on his/her behalf, the minor parent's AU is ineligible for CalWORKs (formerly AFDC). (§89-201.42)

015-9

As a condition of eligibility for the entire AU, at application the following persons must supply through the Statewide Fingerprinting Imaging System two fingerprint images and a photo image:

- .321 Each parent and/or caretaker relative of an aided or applicant child, when living in the home of that child.
- .322 Each parent and/or caretaker relative receiving or applying for aid on the basis of an unaided excluded child.
- .323 Each aided or applicant adult.
- .324 The aided or applicant pregnant woman in her own AU.

(§§40-105.31, .32, effective January 1, 1998)

Failure of any of the above listed persons to comply with the SFIS requirements results in ineligibility for the AU. (All-County Letter No. 00-32, May 11, 2000, Question 13)

015-9A

The county shall inform all persons required to provide fingerprint and photo images that the images will be used only to prevent or prosecute welfare fraud. (§40-105.342)

015-9B

Persons who would otherwise be required to provide fingerprints and photo images shall be temporarily exempt, for a period of not more than 60 days as follows:

SHD Paraphrased Regulations - CalWORKs

010 County/Applicant/Recipient Responsibilities

- (a) Persons with both hands damaged so as to preclude fingerprint imaging shall be excused from fingerprint imaging only.
- (b) Persons with medically verified physical conditions which preclude them from coming into the office shall be excused from both forms of imaging.
- (c) Persons who cannot complete the process because of technical problems with the imaging system.

(§§40-105.331(a), (b); §40-105.35, effective January 1, 1998)

Persons refusing to be fingerprinted/photo imaged for other reasons (e.g., religious beliefs) will cause the AU to have its benefits denied or discontinued. (All-County Letter No. 00-32, May 11, 2000, Question 19)

Persons missing all ten fingers shall be permanently excused from fingerprint imaging only. (§40-105.332, effective January 1, 1998)

015-9C

Counties must systematically inform clients of the Statewide Fingerprint Imaging System (SFIS) requirements. During the period when forms (such as the SAWS-2A, DFA 285.A3, and FS 8) are being revised, counties should provide the form TEMP 2173 to both CalWORKs and Food Stamp applicants or recipients. (All-County Letter No. 00-32, May 11, 2000, Questions 8 and 9)

015-9D

If an applicant has not provided an item which must be verified (e.g., income) and has also not completed the fingerprint imaging process, it is the CDSS position that two separate notices of action must be sent, denying aid because of each of the failures to provide the required information. (All-County Letter No. 00-32, May 11, 2000, Question 23)

015-10

State regulations in §82-506 provides as follows:

“As a condition of eligibility for assistance, each CalWORKs or foster care applicant/recipient shall assign to the county all rights to child/spousal support for the applicant/recipient or any other family member required to be in the AU under Section 82-820.3.” (§82-506.1)

015-10A

State regulations in Handbook §12-410 provide:

“As a condition of eligibility for and under the CalWORKs or Foster Care aid programs, each applicant or recipient shall assign to the district attorney any rights to support from any other person the applicant or recipient may have on his or her own behalf or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid. Receipt of aid automatically constitutes an assignment by operation of law.” (Handbook §12-410.1, effective October 1, 1998)

Despite the differences between §82-506.1 and Handbook §12-410.1, the Handbook refers to §82-506 for assignment of support rights' requirements. (Handbook §12-410.11)

SHD Paraphrased Regulations - CalWORKs

010 County/Applicant/Recipient Responsibilities

015-11

State regulations define an "applicant" as "a person who requests aid or a person on whose behalf a request for aid is made." (§80-301a.(7))

016-1 REVISED 6/04

An application for CalWORKs (formerly AFDC) is a request for aid made in writing to the county on the SAWS 1 (formerly CA 1) form. Applications are classified as new applications, restorations, and reapplications. (§40-103.4)

016-1A

The date of application is the later of the date the applicant or the applicant's representative signs the application or the date the county receives the signed application. (§80-301d.(1))

016-2

"Restoration" is an application for the same category of aid in the same county in which the applicant formerly received aid when such application is made within 12 months from the date of the discontinuance. (§40-103.42)

016-2A REVISED 8/04

When there is a request for restoration of aid, all provisions of §40-100 et seq. apply, except:

1. The county, on a case-by-case basis, shall determine the need for a new Statement of Facts.
2. If the applicant is determined to be eligible within the month following the discontinuance, the applicant must provide CA 7s for the last month of aid and the month prior to that, unless aid is to be computed prospectively.
3. If restoration is requested within the calendar month following the date of discontinuance, no documentation shall be requested which has already been provided unless the documentation is missing, and it affects eligibility in the month of restoration.

In the QR 7 process, If the applicant is determined to be eligible within the month following the discontinuance, the applicant must provide a current QR 7 unless a complete QR 7 for the quarter in which the applicant was discontinued is in the county's possession. The applicant may be assigned to the previous QR cycle or a new QR cycle based on the date of the most recent request for aid.

(§40-125.9 revised effective July 1, 2004)

016-3

A formal application is not necessary for a request to add a person who is a mandatory member of the CalWORKs (formerly AFDC) AU. Such requests shall be recorded in the case record and acted upon promptly. Aid for additional persons shall be authorized promptly upon the completion of the evaluation of the person's eligibility. (§§40-121.3 and .34)

016-3A

The CA 7 may be used as the application for converting state-only cases to federal AFDC and for requesting AFDC for an optional person. (§80-310c.(1))

SHD Paraphrased Regulations - CalWORKs

010 County/Applicant/Recipient Responsibilities

016-4

A redetermination of all circumstances of the CalWORKs (formerly AFDC) recipient subject to change shall be completed at least once every twelve (12) months. The Statement of Facts Form is used for this purpose. At the time of the annual redetermination and completion of the appropriate Statement of Facts, each recipient shall be either given or mailed informational material as required by the CDSS. (§40-181.21)

016-5

The determination of CalWORKs (formerly AFDC) eligibility, including the gathering of any necessary evidence, shall be completed promptly. One of the following must be mailed within 45 calendar days starting with the first day after the filing of the application: An aid payment, a notice of denial, or a notice that the applicant is eligible. (§40-126.1)

016-6

Any person has the right to apply for aid. A CalWORKs (formerly AFDC) applicant who appears ineligible must still be allowed to exercise his/her right to make an application. (§40-109.1)

016-7

The right to be self-determining is of paramount importance in clarifying when, how, and what the individual wants for him/herself. The individual's freedom of choice may be limited by his/her capacity for self-determination and by the function of the agency as expressed in law and regulations. (§40-109.4)

016-8

A CalWORKs (formerly AFDC) application can be withdrawn only upon the voluntary initiative of the applicant or person applying on his/her behalf. The request for withdrawal shall be in writing. (§40-171.231)

016-9

Regulations governing the method of the initial determination also govern all continuing and periodic CalWORKs (formerly AFDC) determinations. (§40-181.31)

016-10

The 9th Circuit Court of Appeals has determined that when a County Welfare Department is closed on a normal working day, it cannot frustrate the individual's right to file an application on such working day. The Court of Appeals remanded the matter to the Federal District Court to fashion an order which would cure this problem in the AFDC, FS, and Medi-Cal programs by having:

- (1) The county offices receive applications during conventional office hours; or
- (2) The county offices provide that if they are closed during such hours any application made on the next day they are open filed as if the application had been filed during the hours they were closed.

Since the second solution could not provide AFDC to a family in an emergency situation, the welfare office, if closed on a normal working day, must have a telephone available to review emergency calls and act upon them as if the calls were made on a regular working day. (*Blanco v. Anderson and Belshé* (1994) 39 F. 3d 969)

SHD Paraphrased Regulations - CalWORKs
010 County/Applicant/Recipient Responsibilities

016-10A

After a remand from the Ninth Circuit Court of Appeal, the United States District Court, E.D. Cal, issued its mandate in *Blanco v. Anderson*, No. CIV-S-93-859 WBS JFM, December 20, 1994.

That Order dealt with those counties which are closed during normal working days, defined by the Order as eight-hour days, Mondays through Fridays, "excluding federal and state holidays". (Per All-County Letter (ACL) No. 95-08, February 16, 1995, all counties were to document current days and hours of operation by March 3, 1995.)

When a county was part of this class, it was required to:

1. Accept and act on all request for emergency AFDC, FS, and Medi-Cal) by maintaining sufficient staff in the office, or through local benefits (including acting on such requests within federal and state time limits telephone service, to act on these requests; and/or
2. Make applications for AFDC, FS, and Medi-Cal benefits readily available by providing a drop-box, mail slot, or other reasonable filing method, and deem such applications as filed on the working day prior to the day the office was closed.

Such counties must also prominently post notices at the welfare offices explaining the procedures they are following, and inform telephone callers to the office of such procedures.

Any alternative method of complying with the Order must meet the intent of the Order and be reported to CDSS and/or CDHS. (All-County Letter (ACL) No. 94-108, December 15, 1994)

016-11

Kin-GAP children shall be treated as "recipients", not applicants, when transferring to Kin-GAP. This status continues even if the case is discontinued and later re-established. (ACL No. 99-97, November 4, 1999)

016-12

Every applicant determined to be eligible for CalWORKs is eligible for Medi-Cal benefits. (§40-171.212)

016-13 ADDED 6/04

The county shall deny aid if the applicant's whereabouts are unknown. (40-171.221(c))

017-1

A face-to-face interview with the CalWORKs (formerly AFDC) applicant is required prior to the granting of aid. (§40-131.1)

017-2

A home visit prior to approval of aid and prior to completion of periodic determination of eligibility is required when living arrangements or other factors affecting eligibility cannot be satisfactorily determined without such a visit. (§40-161)

018-1A

Unless exempted, applicants for and recipients of CalWORKs (formerly AFDC) are required to cooperate with the District Attorney in identifying and locating the absent parent, establishing paternity, securing a support order, and identifying any third parties who may be liable for

SHD Paraphrased Regulations - CalWORKs
010 County/Applicant/Recipient Responsibilities

medical care or services. Applicants/recipients are exempted when such cooperation may reasonably be anticipated to result in serious physical or emotional harm to the applicant/recipient or child, or when:

1. The child for whom aid is sought was conceived as a result of incest or rape; or
2. Legal proceedings for the adoption of the child are pending; or
3. An agency is counseling the applicant/recipient as to whether to keep the child or relinquish the child for adoption.

(§82-512.2, effective July 1, 1997)

018-1B

Effective January 1, 1998, the DA determines whether the applicant or recipient is cooperating in the child support process. (§82-510.1, revised July 1, 1998) The County Welfare Department determines if good cause exists for failure to cooperate. (W&IC §§11477(b)(1), 11477.04; All-County Letter No. 97-65, October 29, 1997)

018-2A

Sanctions for retention of direct child support and spousal support payments as set forth in §43-107.47 are to be applied prospectively only. When the recipient has retained child support in the past, the county shall determine whether overpayments have occurred, but the county can only sanction the recipient if the recipient refuses, on a current basis, to turn over the support payments. (All-County Letter No. 91-34, April 17, 1991)

018-3A

Unless exempted from cooperation requirements per §82-512, the applicant/recipient, when requested, shall cooperate with the District Attorney (DA) in establishing paternity and securing child/spousal support. Such cooperation may include, but is not limited to, the following activities:

- .11 Provide any relevant information in his/her possession about the identity and whereabouts of each absent parent or alleged father.
- .12 Complete, sign, and date the Form CA 2.1 NA and CA 2.1 (Q) for each absent parent or alleged father.
- .13 Appear at the office of the DA, as long as reasonable advance notice is given, as determined by the DA, and the person does not have good cause for failing to appear.
- .14 Submit to genetic testing if paternity is in question and such testing is necessary. "Such testing shall also include the child."
- .15 Serve as a witness in court or at other hearings and proceedings related to child support enforcement, as long as reasonable notice is given, and the person does not have good cause for failing to appear.
- .16 Forward any support payments which he or she receives directly from an absent parent to the DA or to some other agency designated by the DA.

SHD Paraphrased Regulations - CalWORKs
010 County/Applicant/Recipient Responsibilities

.17 Provide to the DA verbal, written, or documentary information related to establishing paternity and securing support.

(§82-510.1, effective July 1, 1997; §§82-510.13, .14, .15 revised effective July 1, 1998, and revised again effective June 21, 1999)

018-3B

Unless exempted from cooperation requirements per §82-512, the applicant/recipient shall cooperate with the District Attorney (DA) in identifying potential sources of medical coverage. Such cooperation may include, but is not limited to, the following activities:

- .21 Provide relevant information about any potential coverage for medical expenses that may be available to the applicant/recipient or any family member from any source;
- .22 Complete, sign, and date a health insurance questionnaire and/or a medical insurance form for each absent parent or alleged father.

(§82-510.2)

018-3C

The applicant/recipient shall cooperate in obtaining any other payments or property due any member of the AU. (§82-510.3)

018-3E

Effective January 1, 1998, the following penalties exist if the CalWORKs parent or caretaker relative fails to assign support rights to the county for the aided child(ren), or fails without good cause to cooperate in the paternity establishment and child support enforcement process:

1. The parent/caretaker relative who fails to assign support rights is ineligible for aid. (§82-506.1, last revised effective October 1, 1998) If cooperation occurs after the penalty is imposed, the individual is added to the AU the date that cooperation occurs. (W&IC §11477(a)(1); All-County Letter (ACL) No. 97-65, October 29, 1997)
2. The parent or needy caretaker relative of a child for whom aid is sought who fails to cooperate with the DA without good cause in the paternity establishment or child support enforcement process is eligible for inclusion in the AU, but the computed grant is reduced by 25%. (Refusal to turn over direct support payments to the DA is such a failure.) If the individual subsequently cooperates as required, the penalty is removed effective the first of the month in which the cooperation occurs. (W&IC §11477.02; ACL No. 97-65; §82-510.4, revised July 1, 1998)
3. These state regulations were revised again to provide that when the DA determined that the applicant or recipient failed to meet cooperation, the county was required to determine whether the applicant or recipient was exempt from cooperative requirements, as defined in §82-512. (§82-510.4, as revised effective June 21, 1999) When the county determines that the individual is not exempt from cooperating, then the county shall reduce the computed grant by 25% until the individual cooperates. (§82-510.41, as revised effective June 21, 1999) The penalty is still to be removed effective the first of the month in which cooperation occurs. (§82-510.42, effective July 1, 1998)

SHD Paraphrased Regulations - CalWORKs
010 County/Applicant/Recipient Responsibilities

4.

018-3F

Effective January 1, 1998 State law modified various parts of §82-512. In particular, good cause for noncooperation with the District Attorney or county in the establishment of paternity or securing support shall be found if certain conditions exist. From January 1, 1998 to June 20, 1999, the DA determined when cooperation was not in the best interests of the child. Effective June 21, 1999, the county determined whether non-cooperation was in the child's best interest. The criteria used were:

1. Efforts to establish paternity or establish, modify or enforce a support obligation would either:
 - a. Increase the risk of physical, sexual, or emotional harm to the child for whom support is being sought; or
 - b. Increase the risk of abuse (as defined in W&IC §11495.1 and, effective July 1, 1998, in §42-713.22 and in §42-701.2 effective June 21, 1999), to the parent or caretaker with whom the child is living.
2. The child for whom support is sought was conceived as a result of incest or rape.
3. Legal proceedings for the adoption of the child are pending.
4. The applicant or recipient is currently being assisted by a public or licensed private adoption agency to resolve whether to keep the child, or relinquish the child for adoption.
5. The applicant or recipient is cooperating in good faith, but is unable to identify or assist in locating the alleged father or other person required to provide support. (This subsection was repealed effective July 1, 1998)
6. Any other reason that would make efforts to establish paternity or establish, modify or enforce a support obligation contrary to the best interests of the child. State regulations were modified to state: "Any other reason that would be contrary to the best interest of the child, or determined by the District Attorney. (§82-512.15, effective July 1, 1998) This regulation was modified again to state: "Any other reason that would be contrary to the best interest of the child. (§82-512.15, effective June 21, 1999)

(W&IC §11477.04(b); All-County Letter No. 97-65, October 29, 1997; §82-512.1, revised effective July 1, 1998, and revised again effective June 21, 1999)

018-3G ADDED 7/06

An applicant or a recipient shall be considered to be cooperating in good faith with the county welfare department or the local child support agency for purposes of Section 11477 and shall be eligible for aid, if otherwise eligible, if he or she cooperates or has good cause for noncooperation. The county welfare department shall make the good cause determination.

Good cause shall be found if any of the following conditions exist:

SHD Paraphrased Regulations - CalWORKs

010 County/Applicant/Recipient Responsibilities

- (1) Efforts to establish paternity or establish, modify, or enforce a support obligation would increase the risk of physical, sexual, or emotional harm to the child for whom support is being sought.
- (2) Efforts to establish paternity or establish, modify, or enforce a support obligation would increase the risk of abuse, as defined in Section 11495.1, to the parent or caretaker with whom the child is living.
- (3) The child for whom support is sought was conceived as a result of incest or rape. A conviction for incest or rape is not necessary for this paragraph to apply.
- (4) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction.
- (5) The applicant or recipient is currently being assisted by a public or licensed private adoption agency to resolve the issue of whether to keep the child or relinquish the child for adoption.
- (6) The applicant or recipient is cooperating in good faith but is unable to identify or assist in locating the alleged father or obligor.
- (7) Any other reason that would make efforts to establish paternity or establish, modify, or enforce a support obligation contrary to the best interests of the child.

(Welfare and Institutions Code (W&IC) §11477.04 (a) and (b))

018-3H ADDED 7/06

Evidence supporting a claim for good cause includes, but is not limited to, the following:

- (1) Police, governmental agency, or court records, documentation from a domestic violence program or a legal, clerical, medical, mental health, or other professional from whom the applicant or recipient has sought assistance in dealing with abuse, physical evidence of abuse, or any other evidence that supports the claim of good cause.
- (2) Statements under penalty of perjury from individuals, including the applicant or recipient, with knowledge of the circumstances that provide the basis for the good cause claim.
- (3) Birth certificates or medical, mental health, rape crisis, domestic violence program, or law enforcement records that indicate that the child was conceived as the result of incest or rape.
- (4) Court documents or other records that indicate that legal proceedings for adoption are pending before a court of competent jurisdiction.
- (5) A written statement from a public or licensed private adoption agency that the applicant or recipient is being assisted by the agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

(Welfare and Institutions Code (W&IC) §11477.04(c))

SHD Paraphrased Regulations - CalWORKs
010 County/Applicant/Recipient Responsibilities

018-5A

Where there is a claim that cooperation in establishing paternity and securing support, or in identifying sources of medical coverage, would not be in the best interests of the child, the applicant/recipient has the burden of establishing the existence of the grounds for the exemption. This requires the applicant/recipient to:

- .411 Specify the circumstances that provide grounds for the exemption;
- .412 and
- .413 Provide supporting evidence, within 20 days from the claim for exemption, except additional time may be allowed if it is difficult to obtain such evidence;
- .414 Provide sufficient evidence (such as the absent parent's name and address) to permit an investigation.

(§82-512.51, renumbered from §82-512.41, effective July 1, 1998)

018-5B

Evidence to support an exemption based on a claim that the child was conceived as a result of incest or rape includes birth certificates or medical, mental health, rape crisis, domestic violence program or law enforcement records, and statements made under penalty of perjury by the applicant/recipient or from individuals with knowledge of the circumstances. (§§82-512.521, .525, renumbered, and revised from §§82-512.421, .422, .427, effective 7/1/98)

018-5C

Evidence to support an exemption based on a claim that adoption proceedings are pending includes court documents or other records, and statements under penalty of perjury by the applicant/recipient or from individuals with knowledge of the circumstances. (§§82-512.522, .525, renumbered and revised from §§82-512.422, .427, effective July 1, 1998)

018-5D

Evidence to support an exemption based on a claim that an agency is counseling the individual as to whether to keep the child or relinquish the child for adoption, includes a written statement from a public or licensed private social agency, and statements under penalty of perjury by the applicant/recipient or from persons with knowledge of the circumstances. (§§82-512.523, .525, renumbered and revised from §§82-512.423, .427, effective July 1, 1998)

Prior to July 1, 1998, the total of counseling days could not exceed 90 days for the exemption to be allowed. (§82-512.14) Counseling days before the birth of the child were determined based on the number of days on which there were meetings with a counselor. Days after birth shall be counted consecutively, and added to the prebirth counseling days. (§82-512.141) The 90-day provision in §82-512.14 has been deleted, and §82-512.141 has been repealed.

018-5E

There are special considerations when the exemption claim is based, in whole or part, on emotional harm to the individual or to the child. The following shall be considered in evaluating the individual subject to potential emotional harm:

- .31 The present emotional state of that individual;

SHD Paraphrased Regulations - CalWORKs
010 County/Applicant/Recipient Responsibilities

- .32 The emotional health history of that individual;
- .33 The intensity and probable duration of the impairment;
- .34 The extent of the involvement of that individual in the paternity enforcement establishment and support enforcement activity.

(§82-512.4, renumbered from §82-512.3, effective July 1, 1998)

Prior to July 1, 1998, state regulations provided that evidence to support an exemption based on an individual's claims of physical or emotional harm includes:

- .424 Court, medical, criminal, child protective or social services, psychological or law enforcement records which indicate that the absent parent might inflict harm on the individual or child;
- .425 Medical records of the emotional health history and present emotional health status of the individual or child;
- .426 Written statements from a mental health professional with a diagnosis or prognosis of the emotional health of the individual or child;
- .427 Statements under penalty of perjury from persons (other than the individual) with knowledge of the circumstances.

(§§82-512.421.426, repealed effective July 1, 1998. §82-512.427 was revised to allow the penalty of perjury statement to be made by the applicant/recipient, and renumbered §82-512.525)

018-6B

State regulations in §82-506 provides as follows:

"As a condition of eligibility for assistance, each CalWORKs or foster care applicant/recipient shall assign to the county all rights to child/spousal support for the applicant/recipient or any other family member required to be in the AU under Section 82-820.3." (§82-506.1, effective October 1, 1998)

018-7

A CalWORKs (formerly AFDC) recipient is required to forward any support payments which he or she receives directly from an absent parent to the District Attorney or to some other county agency designated by the District Attorney. (§43-107.26, repealed and replaced by §82-510.16)

018-8

The Director of CDSS has been permanently enjoined from sanctioning an AFDC recipient for failure to provide information on the absent parent unless the recipient has been offered the opportunity to demonstrate cooperation by attesting to a lack of information about the absent parent. This attestation shall be made under penalty of perjury pursuant to 45 Code of Federal Regulations §232.12(b). (All-County Letter (ACL) No. 90-12, January 30, 1990, implementing the *Sahi v. McMahan* Stipulation, No. 38756, Siskiyou County Superior Court)

SHD Paraphrased Regulations - CalWORKs
010 County/Applicant/Recipient Responsibilities

018-10

When the county determines that an exemption from cooperation exists, the DA shall be notified. Activities to secure child support shall be started or resumed only when the applicant/recipient makes such a request. (§82-508.352, effective June 21, 1999)

019-1A

As a condition of eligibility, each CalWORKs applicant or recipient shall furnish his/her Social Security Number (SSN) or numbers to the county within 30 days following the individual's application date. If the individual cannot furnish the SSN, he/she must submit verification of the following before aid can be authorized:

1. An application has been filed at the local Social Security office;
2. The Social Security Administration (SSA) has accepted the application for processing;
3. The applicant will give the county the SSN when the number is received. (§40-105.2)

019-2A

Verification of a completed application for a Social Security Number (SSN) on behalf of a newborn to be added to the AU shall be submitted to the county no later than the last day of the month following the month in which the mother is released from the hospital. (§40-105.22)

019-2B ADDED 9/08

State-funded victims of trafficking, domestic violence or other serious crimes identified under MPP §42-431.23 are not required to meet Social Security Number requirements (§40-105.26)

019-3 REVISED 03/09

The county shall inform the applicant/recipient of the responsibility to apply for or provide a Social Security Number (SSN).

The county shall deny or discontinue aid for any AU applicant or recipient who refuses or fails to cooperate in providing an SSN, or verification that an application for the SSN was completed within 30 days of the date of application for assistance.

If the caretaker relative refuses or fails to cooperate on behalf of the child, the child is ineligible. If that child is the only eligible child, the AU is ineligible.

(§40-107(a)(1) and(g)(1)(E))

019-4

The U.S. Supreme Court has determined that the federal AFDC requirements which require applicants and recipients to furnish SSNs to the state agency, and which permit the agencies to use those SSNs in the administration of the state plan, do not violate the Free Exercise (of Religion) clause of the First Amendment to the United States Constitution. (*Bowen v. Roy* (1986), 470 U.S. 693, 106 S. Ct. 2147)

019-5

Documentation of all age appropriate immunizations shall be provided for all children in the AU not required to be enrolled in school unless it has been medically determined that an

SHD Paraphrased Regulations - CalWORKs

010 County/Applicant/Recipient Responsibilities

immunization is not appropriate, or the applicant/recipient has filed an affidavit with the County Welfare Department that the immunizations are contrary to the applicant's or recipient's beliefs. (W&IC §11265.8)

019-5A

The CDSS policy is that since in California school enrollment is compulsory for children ages six to 18, immunization verification is required for AUs with children under the age of 6, unless the 5-year-old is enrolled in school. (All-County Letter No. 97-70, Attachment 8, October 28, 1997)

019-6 REVISED 11/05

When immunization or school attendance documentation is required but not submitted, penalties for the parent(s) or caretaker relative (i.e., exclusion from the AU for purposes of eligibility determination and grant computation) are applied the first of the month following timely notice. (§§40-105.4(g), 40-105.5(e), effective July 1, 1998)

Under QR/PB, once verification of immunization or school attendance is submitted, the parent's or caretaker relative's needs are included in the AU effective the first of the month following the month in which verification is received. (ACL No. 97-70, p.3; §§40-105.4(h), 40-105.5(g), effective July 1, 1998)

019-7

All children in an AU for whom school attendance is compulsory, i.e., ages six to 17, except those eligible for Cal-Learn, or subject to a county school attendance project (in Merced and San Diego counties), shall be required to attend school. (W&IC §11253.5(a); All-County Letter (ACL) No. 97-70, p.4, October 28, 1997; §§40-105.5(a) and (c), effective July 1, 1998)

Once informed of the attendance requirement, the recipient shall cooperate with the county in providing documentation of the child(ren)'s school attendance, when the county determines documentation is appropriate. (W&IC §§11253.5(b) and (c); §40-105.5(b), effective July 1, 1998)

If the county determines that an eligible child under the age of 16 is not regularly attending school, the needs of all adults in the AU shall not be considered in computing the grant for the AU, unless good cause exists. If the eligible child is over 16, and does not meet attendance requirements, that child's needs shall not be considered in computing the grant. (W&IC §§11253.5(d) and (e); ACL No. 97-70, p.4; §40-105.5(d), effective July 1, 1998)