

## SHD Paraphrased Regulations - CalWORKs

### 160 Underpayments

#### 160-1

Underpayments occur when a CalWORKs (formerly AFDC) recipient has received a lesser amount of aid than that to which he or she is entitled. Underpayments are to be corrected by balancing them against outstanding overpayments or through retroactive payments. (§44-340)

#### 160-1A ADDED 8/04

Under QR/PB an underpayment occurs when the AU receives less cash aid than the AU was entitled to receive and would be based on regulations in effect at the time the underpayment occurred. The county shall not reconcile actual verified income against prospectively budgeted reasonably anticipated income that was used in the grant calculation. (§44-340.32 and .321 effective July 1, 2004)

#### 160-2

Any underpayment which is due to the erroneous denial of an application for aid shall be corrected even though the applicant failed to perform an act constituting a condition of eligibility when such failure was caused by the denial. (§44-340.131)

#### 160-3

When the county discovers that a person required to be in the AU is in the home, it shall notify the AU by mail that the discovered person is required to be included on the Statement of Facts. The county shall then redetermine the AU's eligibility from the date the person was required to be in the AU until the date the notice was mailed. In recomputing the grant, include the person's income, resources and needs. (§44-315.411-.414) Correct an underpayment by determining the underpayment, and issue payment for those months in which all technical conditions of eligibility (per §44-317.112(a)) are met. Technical conditions are met as of the date the person required to be in the AU cooperates in meeting those conditions, and the caretaker/relative has fulfilled the reporting responsibilities required by §40-105.14 in relation to AU composition. (§44-355.16)

#### 160-4

For purposes of determining continued eligibility and amount of assistance, retroactive payments to correct underpayments shall not be considered as income or as a resource in the month paid, nor in the following month. (§44-340.6)

#### 160-5

When the individual whose needs were previously excluded is restored to the grant effective the first of the month that requirements of the immunization or school attendance provisions are met, the additional payment is a supplemental payment. Thus it is not subject to adjustment for any overpayment. (All-County Letter No. 97-70, Attachments 8 and 9, October 28, 1997)

#### 160-6 ADDED 2/04

If the county determines that the assistance unit/household received an underpayment/underissuance due to county error, the county must take action to restore those benefits. Restoration is based on QR rules. The county may not use actual verified income to reconcile against prospectively budgeted income that was used in the benefit calculation as income that was "reasonably anticipated" at the time benefits were calculated.

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As an example, in CalWORKs an underpayment should be provided for an assistance unit for any pregnant/parenting teen who had previously been aided as a dependent child and who had a break in aid between being aided in their parent/caretaker relative's assistance unit and establishing her own assistance unit. (All-County Letter No. 03-18, April 29, 2003, p.73)

#### 161-2 REVISED 8/04

Under MR/RB, a reduced income supplemental payment which was correctly computed based on the AU's reasonable estimate of the income and other circumstances for the payment month shall not be subject to an underpayment determination. If there is a computational error, the payment shall be corrected. (§44-340.14 prior to implementation of QR/PB in the county)

#### 161-2A ADDED 8/04

Under QR/PB, a mid-quarter supplemental payment resulting from a voluntary mid-quarter report which was correctly computed based on a recalculation of reasonably anticipated income and/or other changed AU circumstances shall not be considered an underpayment and is not subject to overpayment offset. (§44-340.14 effective July 1, 2004)

#### 161-3 ADDED 2/04

No overpayment/overissuance or underpayment/underissuance shall be assessed when actual income received during the quarter differs from the amount of income reasonably anticipated, as long as the recipient met his/her reporting responsibilities. No reconciling based on actual income is done if reporting requirements are met accurately and completely and the county averaged and issued benefits based on reasonably anticipated income.

Reconciling beginning months of CalWORKs to determine the correct grant amount does not apply in QR/PB rules. (All-County Letter No. 03-18, April 29, 2003, p.74)

#### 161-3A ADDED 8/04

No underpayment shall be established when a change in circumstances occurs or actual income received is less than what was reasonably anticipated during the QR Payment Quarter and the recipient did not voluntarily report the change during the QR Payment Quarter in accordance with §44-316.31. (§44-340.33 effective July 1, 2004)

#### 162-1

When exempt AU status is established based on county review--such as when the required AU members are GAIN exempt under §§42-793 or 42-795, AFDC incapacitated parent, unaided nonparent caretaker relative, under 19 years old and in a program leading to a high school or equivalent diploma, or in receipt of qualifying income--then the AU is exempt the month in which the qualifying conditions are met. The claimant need not make a request, nor, in the case of qualifying income, is a timely report required. (All-County Letter No. 96-28, May 23, 1996, pp. 3-4, interpreting §§89-110.26, .27 and 44-340.31)

#### 163-1 REVISED 8/04

Under MR/RB, a reduced income supplemental payment which was correctly computed

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based on the AU's reasonable estimate of the income and other circumstances for the payment month shall not be subject to an overpayment determination. If there is a computational error, the payment shall be corrected. (§44-350.17)

This section becomes inoperative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's declaration.

#### 163-2 REVISED 8/04

Under MR/RB, a reduced income supplemental payment which was correctly computed based on the AU's reasonable estimate of the income and other circumstances for the payment month shall not be subject to an underpayment determination. If there is a computational error, the payment shall be corrected. (§44-340.14 prior to implementation of QR/PB in the county)

This section becomes inoperative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's declaration.

#### 163-3A REVISED 8/04

Under MR/RB, an AU is not eligible for a reduced income supplemental payment (RISP) if the AU's total estimated net nonexempt income for the RISP, payment month equals or exceeds net nonexempt income in the budget month. (§44-401.1) If net income in the RISP month is less than in the budget month, the AU must still be eligible, and request the RISP in the RISP payment month. (§44-401.2 prior to implementation of QR/PB in the county)

Under MR/RB, when eligibility for the RISP exists, the RISP shall equal the difference between 80% of the AU's MAP level minus the family's available net nonexempt income estimated for the RISP month. (§44-402.1, effective July 1, 1998 prior to implementation of QR/PB in the county)

This section becomes inoperative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's declaration.

#### 163-3B REVISED 8/04

Under MR/RB, net available nonexempt income, for RISP purposes, is the retrospectively budgeted grant amount (per §44-402.21) plus estimated available income (per §44-402.22). (§44-402.2)

The total grant amount is that which would have been retrospectively budgeted from the budget month to the payment month, with the following exceptions:

- .211 Special needs (including recurring, nonrecurring and pregnancy).
- .212 The amount that would otherwise be adjusted to recover an overpayment.
- .213 Any portion of the grant which represents a child support penalty.

(§44-402.21, as revised effective July 1, 1998 prior to implementation of QR/PB in the county)

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The total net nonexempt income estimated to be available in the RISP month shall be based on the income definition in §44-100 et seq., plus the \$50 child/spousal support disregard. (§44-402.22, as revised effective July 1, 1998 prior to implementation of QR/PB in the county)

This section becomes inoperative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's declaration.

#### **163-5 REVISED 8/04**

Under MR/RB, in determining the grant amount to be used in computing the net available income for reduced income supplemental payment purposes, special needs shall not be considered part of the grant amount for the payment month. This includes recurring special needs, nonrecurring special needs and the pregnancy special need payment. (§44-402.213, renumbered to §44-402.211, effective July 1, 1998 prior to implementation of QR/PB in the county)

This section becomes inoperative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's declaration.

#### **163-6 REVISED 8/04**

Under MR/RB, no overpayment or underpayment shall be assessed against a reduced income supplemental payment which was correctly computed based on the AU's reasonable estimate of expected income and other circumstances for the reduced income supplemental payment month. (§44-402.6 prior to implementation of QR/PB in the county)

This section becomes inoperative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's declaration.

#### **163-7 REVISED 8/04**

Under MR/RB, the county shall send the Reduced Income Supplemental Payment Request Form, CA 40, monthly to all AFDC AUs which have reported income and for two months following a termination of reported income. (§40-181.1(b))

This section becomes inoperative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's declaration.

#### **163-7A REVISED 8/04**

Under MR/RB, at the time of the annual redetermination and completion of the Statement of Facts, CalWORKs recipients shall be informed of the availability of RISPs and the necessity that an AU request the payment in order for it to be provided. (§40-181.212)

This section becomes inoperative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's declaration.

#### **163-8 REVISED 8/04**

Under MR/RB, in determining the retrospectively budgeted grant amount to be used in computing the net available income for reduced income supplemental payment purposes, the amount that would otherwise be adjusted to recover an overpayment shall not be "considered" (formerly "adjusted") when computing the amount for the payment

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month. (§44-402.214, as revised effective July 1, 1998) "Any portion of the grant which represents a child support penalty shall not be considered when computing the grant for the payment month." (§44-402.213, effective July 1, 1998)

This section becomes inoperative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's declaration.

#### 163-9 REVISED 8/04

Under MR/RB, the ten dollars (\$10) payment limit specified in §44-315.5 shall not apply to RISPs. (§44-402.3, as revised effective July 1, 1998)

This section becomes inoperative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's declaration.

#### 163-10 ADDED 2/04

The Reduced Income Supplemental Payment (RISP) is not available in the QR/PB system. The provisions of *Jones v. Yeutter* are no longer applicable under QR/PB rules. Both RISPs and *Jones* were based on retrospective budgeting. (All-County Letter No. 03-18, April 29, 2003, pp.46-47)

#### 164-1

The Court of Appeal determined that Administrative Law Judges (ALJs) had the authority to award interest in conjunction with the issuance of retroactive benefits. (*Knight v. McMahon* (1994) 26 Cal.App. 4th 747)

On August 29, 1996 the California Supreme Court held that Unemployment Insurance ALJs did not have the authority to award interest. The Court held that those ALJs had no such authority. The Court specifically disapproved the *Knight* case, to the extent that it allowed CDSS ALJs to award interest. Thus, CDSS ALJs may no longer authorize interest payments when retroactive aid is ordered, effective September 29, 1996. (*AFL and CIO v. Unemployment Insurance App. Bd.* (1996) 13 Cal. 4th 1017, 56 Cal. Rptr. 2d 109; All-County Information Notice No. I-52-96, September 25, 1996)