

AN ADVOCATE'S GUIDE TO CALWORKS

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Preface

This manual is written for advocates who are not public benefits specialists. Hence, we do not discuss in great detail some of the more arcane rules governing CalWORKs, such as in the complex areas of immigrant and financial eligibility, and local implementation of the “welfare to work” program. Our hope is that readers will glean from this manual enough to know when s/he is in deep water. In that case, call the legal services office serving your county.

Researching the Law

Although an appendix containing some of the major differences between the counties is included, **every advocate should get a copy of their county’s CalWORKs plan setting forth how the county intends to operate its “welfare to work” program.** A most valuable resource is the Western Center on Law and Poverty’s *CalWORKs Manual: A Comprehensive Guide to Welfare and Related Medi-Cal Issues for California Families* (revised 2006). The Center is located at 3701 Wilshire Blvd., Suite. 208, Los Angeles, CA 90010, Tel: 213-487-7211). State Department of Social Services regulations governing CalWORKs are found at:

<http://www.dss.cahwnet.gov/getinfo/policypro.html>.

To begin a general search for the law governing CalWORKs, go to www.lsnr.net, the website of Legal Services of Northern California.

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AN ADVOCATE'S GUIDE TO CALWORKS

Introduction

CalWORKs stands for "California Work Opportunities and Responsibility to Kids," and is a time-limited state program that provides poor families¹ with monthly checks to help pay for basic needs such as rent, food and clothing while the family seeks or prepares for unsubsidized employment. It replaces the Aid to Families with Dependent Children (AFDC) program, which was abolished effective January 1, 1998.

The principal features distinguishing CalWORKs from AFDC are:

- Time Limits: Most recipients may receive benefits for up to 60 months
- "Welfare to Work" Requirements: Most recipients will have to perform "work activities" to remain eligible for benefits
- Relaxed Eligibility for Unemployed Two Parent Families: Unlike in AFDC, these families are eligible even if they have no past work history

CalWORKs is funded by a federal "Temporary Assistance for Needy Families" (TANF) block grant. Since federal law provides very minimal guidelines that individual states must follow, each state not only has very different rules for eligibility, but also different benefit levels.

The Law Governing CalWORKs

The statutes guiding the CalWORKs program are found at Welfare and Institutions Code ("WIC") § 11000 et seq., while that governing child care for CalWORKs recipients is found beginning at Education Code § 8208. CalWORKs regulations for California's program are codified in the State Department of Social Services' Manual of Policies and Procedures ("MPP"), Divisions 40-45 and Divisions 80-82. The department's interpretation of these rules are found in All County Letters ("ACL"). Federal Law setting the conditions for receiving TANF funding is found at 42 U.S.C. § 601 et seq., and the implementing regulations at 45 C.F.R. Part 270.

¹ **IMPORTANT NOTE:** "Family" will often be used in this manual as shorthand for the CalWORKs "Assistance Unit" (AU). However, not all members of what is commonly considered a family are necessarily members of the AU. For example, non-parent adult caretaker relatives of a child do not have to be in the AU since they are not legally responsible for the child. Even within a nuclear family, neither a parent or child receiving SSI, or an undocumented immigrant parent, is included in the AU. (See "Who is Eligible for CalWORKs", below.)

WHO IS ELIGIBLE FOR CalWORKs?

Financially Needy Children

Relatives may apply for CalWORKs for themselves and their related child(ren) if the child(ren) is “deprived” of adequate parental support or care. The “child” must be under 18 years of age, or be in school and expected to graduate before s/he reaches age 19 (the latter is called the “completion rule”).² WIC § 11253; ACL 01-77. Under WIC § 11250, a child is “deprived” of parental support and care if one of his/her biological parents is:

- Deceased,
- Incarcerated,
- Continuously Absent from the Home³ (absence due to active duty in the uniformed services of the United States does not qualify. ACL 02-47),
- Incapacitated (a doctor must verify that a disability or illness substantially reduces the parent's ability to support or care for the child), or
- Unemployed (defined as not having worked more than 100 hours in the preceding four weeks. WIC § 11201.)⁴

Caretaker Relatives of a Deprived Child

If there is deprivation, the following people may receive CalWORKs for themselves and/or related child(ren):

- Parent(s). WIC § 11253.

² *Fry v. Saenz*, 98 Cal. App. 4th 256 (3d Dist. 2002), holds that the “completion rule” violated the Americans with Disabilities Act and the Rehabilitation Act of 1973 when it denied benefits to disabled children who were 18 years old, but, because of their disability, were not expected to complete high school by their 19th birthdays. The principle of this case can be used to challenge many rules that appear to discriminate against recipients with disabilities.

³ “Continued absence” exists when the nature of the absence is such as either to interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance to the child; and the duration of the absence precludes counting on the absent parent. WIC § 11250(c).

⁴ 45 CFR § 233.100 (cited in WIC § 11201) provides a more detailed definition of “unemployed.”

- Minor mothers. However, while applicants do not have to be 18 years old to apply, they may need to have an adult act as their “Payee.” Absent “good cause” (such as no parent available, potential harm, or the minor mother has lived apart from her parents for more than 12 months) all unmarried mothers under age 18 must live with a parent or guardian. WIC § 11254.
- Pregnant women, in their last trimester (month seven on). WIC § 11450(b).
- Certain relatives who are taking care of children under 19 years old. WIC § 11203. Although the CalWORKs statute does not identify the degree of relationship required, the AFDC program permitted as caretakers: mothers, fathers, aunts, uncles, first cousins, nieces, nephews, sisters, brothers or any of the above if: half-related, a grand, a great-grand, great-great-grand, adopted, step or spouse of any of the above. See MPP 82-808.11, et seq.

Custody and Temporary Absence of the Child

Assuming all other requirements are met, the custodial parent actually caring for the child will be eligible to receive benefits. If the parents have joint custody, CalWORKs eligibility depends on who has greater care and control of the children. If the child stays with one parent more than 50% of the time, that parent is the caretaker relative. MPP 82-808.411. If the parents have equal care and control, then the parent who applies first is eligible. See MPP 82-808.412. The child's absence from home for less than one month, for example, because of visitation or school, will not affect eligibility. MPP 82-812.5.

Both parents are in the home

Even if both parents are in the home, the family can still receive CalWORKs if the child is deprived of the support of the principal wage earner. This can occur when, because of a doctor-verified disability or incapacity, one of the two parents either cannot get a job or care for the child. “Deprivation” also exists if one of the parents is unemployed. WIC §§ 11201, 11202, 11250.

Parent(s) Working

As long as the family's gross earned income, less \$90, is below the CalWORKs “minimum basic standard of adequate need” for a family of that size⁵ and neither parent has worked more than 100 hours in the previous four weeks, an applicant family will be eligible for benefits. WIC §§ 11201(b), 11450.12(a). If both parents are in the home and deprivation is not based on incapacity, a recipient family can continue receiving CalWORKs even if one of the parents works more than 100 hours per month, so long as the family income is below the income limit after all deductions available for recipients have been made. WIC § 11201(c). These income eligibility rules are discussed on page 13.

⁵ The amount of this “needs standard” applicable to families of various sizes is set forth in the table found on page 15.

Otherwise Eligible “Qualified” Immigrants

Certain non-U.S. citizens are eligible for CalWORKs benefits, although most are generally subject to “sponsor deeming.” Under “sponsor deeming,” the income and resources of the relative who sponsored the non-citizen for entry into the United States will be considered available to support the non-citizen for a number of years.

“Qualified” Immigrant⁶

Under federal law, only “qualified” immigrants are eligible for public benefits. 8 U.S.C. §§ 1611, 1641.⁷ California law also makes eligible those who are “permanently residing in the United States under color of law, a category which is broader than “qualified” immigrant. WIC § 11008.13. However, the validity of this provision is unclear in light of the new federal provisions. To be “qualified,” an immigrant must be:

- a lawful permanent resident;
- granted refugee, political asylee, “Amerasian Immigrant” or parolee status;
- a victim of trafficking in persons for the purpose of sexual or economic exploitation⁸. ACL 02-28, 01-58;
- a “Cuban or Haitian Entrant”; or
- an abuse survivor (an abused spouse, parent of an abused child, or the child of an abused parent) who, as the spouse or child of a US citizen or permanent resident, has either applied for permanent residency under the Violence Against Women Act (“VAWA,” 8 U.S.C. § 1154(a)(1)), or whose spouse or parent has filed a petition for permanent residency on their behalf. ACL 00-07, 98-65.

⁶ ACL 98-65 provides a detailed discussion of “qualified” immigrant eligibility.

⁷ Note that 8 U.S.C. § 1611 sets forth several important exceptions to the “qualified” immigrant rule, including medical assistance under Title XIX of the Social Security Act; short term, non-cash, in-kind emergency disaster relief; and public health assistance for immunization.

⁸ “Severe forms of trafficking in persons” means: sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not reached 18 years of age; or the recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. Trafficking Victims Protection Act of 2000; ACL 01-58.

Undocumented and other “not qualified” immigrants are generally ineligible for CalWORKs

CalWORKs Eligibility for Immigrants in California⁹

“Qualified” Immigrants Who Entered the U.S. Before August 22, 1996	“Qualified” Immigrants Who Entered the U.S. After August 22, 1996.	“Not Qualified” Immigrants
Eligible. The “sponsor deeming” rule in effect when the immigrant entered the US no longer applies because more than three years have elapsed.	Eligible but subject to “sponsor deeming” (described in the text)	Eligible only if: <ul style="list-style-type: none"> ▪ Granted indefinite stay of deportation/removal, indefinite voluntary departure; or ▪ Permanently residing in the U.S. under color of law (PRUCOL).

Sponsor Deeming

Unless they are a refugee, asylee, parolee or Cuban or Haitian Entrant, most sponsored immigrants are effectively ineligible for at least three years after entry into the United States because their sponsor's resources and income will be “deemed” to be available to support the immigrant during this period. WIC § 11008.13. (See page 16 for the formula for “deeming” income and resources.)

Immigrants sponsored under the new sponsor's affidavit of support used beginning December 19, 1997 (so-called “213A aliens”) will be subject to sponsor deeming until they become a U.S. citizen or have more than “40 Quarters of employment” as defined by Social Security and attributable to the immigrant, his/her spouse during their marriage, or his/her parents before the immigrant reached age 18. No Quarter after December 31, 1996 in which the immigrant received CalWORKs (or Temporary Assistance to Needy Families benefits in other states), Food Stamps, SSI or Medi-Cal benefits will count. WIC § 11008.135, ACL 97-65, 8 U.S.C. § 1631.

Some sponsored immigrants who entered the country after December 19, 1997 are exempt from sponsor deeming. 8 USC § 1631(e) and (f); MPP 43.119.221 and 222. These include:

- Certain abuse survivors (an immigrant, the immigrant's child, or the child of a battered parent, who has been battered by a spouse or parent, or by a member of the spouse or parent's family residing in the same household as the survivor and the spouse or parent consented to or acquiesced to the abuse). In addition to falling within one of the above categories, the immigrant must also (a) have a pending self-petition with INS, or an approved petition, for adjustment of status to permanent resident under the Violence Against Women Act, (b) show a substantial connection between the violence and the need for benefits, and (c) not be living with the batterer. MPP 43.119.222; ACL 00-07.

These immigrants are exempt for one year, which can be extended if the INS deems that the violence is continuing, and the local welfare department determines that the violence continues to have a connection with the need for benefits.

⁹ Chart taken from National Immigration Law Center's *Guide to Immigrant Eligibility for Federal Programs*, 4th Ed. 2002.

- Immigrants as to whom benefits are necessary to avoid homelessness and hunger.

These are immigrants who have been abandoned by the sponsor, or the sponsor's contribution is so inadequate that the person would otherwise go without food and shelter. Determination is made by the county welfare department. This exemption lasts for one year, and cannot be extended. MPP 43-119.221.

Sponsor Deeming Rules in California¹⁰

Traditional Affidavit (I-134)*: Issued Before December 19, 1997		New Affidavit (I-864)*: Issued After December 19, 1997	
Deeming Period	Exemptions	Deeming Period	Exemptions
No Deeming (the three year deeming period has already elapsed)	N/A	<ul style="list-style-type: none"> ▪ Until citizen, or ▪ Credited for 40 quarters of work history 	<ul style="list-style-type: none"> ▪ Would go hungry or homeless without benefits (12 months) ▪ Domestic Violence victim (12 months, or longer if abuse is recognized by INS, ALJ, or a court)

* Deeming rules may depend on whether the immigrant's sponsor signed the "traditional" affidavit of support (INS form I-134), or the "new" affidavit of support (INS form I-864). The new affidavit of support went into use on 12/19/1997. However, some immigrants who entered the U.S. after that date have an old affidavit on file.

Fugitive and Drug Felons are Ineligible for CalWORKs

Fugitive felons and parole or probation violators, defined as those for whom an arrest warrant has been issued, are ineligible for CalWORKs. WIC § 11486.5. In addition, those convicted of a felony involving a controlled substance after December 31, 1997 will also be ineligible. WIC §§ 11251.3; ACL 97-65.

HOW LONG CAN SOMEONE RECEIVE CalWORKS?

CalWORKs recipients can only receive benefits for a total of 60 months. 45 CFR § 254.1; WIC § 11454(b); ACL 97-65. The 60 months began running on January 1, 1998. WIC § 11454(c); ACL 97-65. Where the monetary amount of a family's benefits is low, the client should be advised to seriously consider whether receiving benefits at this time is worth using up one of the family's 60 months of entitlement.

Exceptions to the 60 month time limit set forth in WIC § 11454, MPP 42-302.11; ACL 97-65 and 98-09 include situations in which all parents or caretaker relatives of the children are, on the 61st month:

¹⁰ Chart taken from National Immigration Law Center's *Guide to Immigrant Eligibility for Federal Programs*.

- age 60 or over,
- unable to work because of a doctor-verified disability, or because of a disability for which the caretaker receives certain disability benefits (including State Supplemental Payments, In-Home Supportive Services, State Disability or temporary Workers Compensation) lasting at least 30 days,
- unable to maintain employment or participate in welfare to work activities based on the welfare to work assessment, and the caretaker has a history of full participation in and cooperation with, welfare to work activities,
- unable to work because of caretaker responsibilities for a child who is a ward of court or at risk of foster care, or for an incapacitated household member,
- an abuse victim or survivor, where imposition of the time limit would make it more difficult to escape abuse or would otherwise be detrimental or unfairly prejudice the survivor, or
- not a member of the assistance unit.

Certain months of assistance will not count towards the time limit. Under 42 U.S.C. § 608(a)(7), WIC § 11454.5(b), MPP 42-302.21, and ACL 98-09, these include months in which the caretaker was:

- a minor mother and not the head of household,
- a teen parent required to attend school,
- disabled for at least 30 days,
- living on an Indian reservation or Alaska native village with over 50% unemployment¹¹,
- unable to work because of excessive caretaker responsibilities for a child who was or is a ward of court or at risk of foster care, or for an incapacitated household member,
- not a member of the assistance unit,
- In addition, months will not count in which the child support collected for the family exceeds the maximum CalWORKs grant amount for a family of that size¹²,

¹¹ Refer to ACLs 02-91 and 02-92 for unemployment rates of villages and rancherias in California.

¹² Given the state of many counties' child support collection records, eligibility for this

Once the 60-month time limit has been reached, only the children can receive benefits. Counties can opt to provide these benefits in the form of cash grants or vendor payments (vouchers). WIC §§ 11320.15, 11450.13. The adult caretaker will not be eligible for General Assistance or General Relief (with the exception of healthcare benefits) until the aided child reaches age 18. WIC §17021. See page 40 “Assistance Aimed at Avoiding Welfare and Assistance After CalWORKs” for a deeper discussion of supportive services and health benefits available after CalWORKs.

Additionally, the county is supposed to notify recipients of their accumulated time on aid at specific intervals to ensure that recipients know of the approach of their ending months of eligibility, and are provided ample time to claim any exemptions. For example, counties have to inform recipients of their accumulated time on aid between the recipient’s 54th and 58th months and on the 60th month¹³. MPP 40-107.144; 40-107.147.

THE FAMILY VIOLENCE OPTION: ABUSE SURVIVORS ARE GIVEN SPECIAL CONSIDERATION

The CalWORKs program recognizes the high incidence of domestic violence among recipients. The statute requires counties to (a) identify applicants and recipients who are abuse survivors while maintaining confidentiality, (b) refer them to supportive services, and (c) waive any program requirement that would make it more difficult to escape abuse or would unfairly penalize those who have been abused. WIC §§ 11495.1, 11495.15. Requirements that can be waived include:

- 60 month time limit (MPP 42-302, 42-713.22 and 42-715.512(a))
- Welfare to Work participation requirements (MPP 42-710.65; and 42-715.512(b))
- Child Support Cooperation requirements (MPP 82-512 and 42-715.512(d) and (e)).

(The basic regulation covering the Family Violence Option is MPP 42-715. ACL 99-09 contains most of the domestic violence regulations in one packet.)

Arguments can also be made that eligibility requirements such as the ban on convicted drug felons, family cap on increased benefits, teen parents living at home, or immigration status may also be waived if a connection between the abuse and the inability to meet the requirement can be shown. However, some requirements cannot be waived, including “deprivation” (the aided child must be

exception will require some digging and prodding by the CalWORKs recipient. See ACL 02-74 for a discussion on how counties track exempt months due to child support overpayments.

¹³ See MPP 40-107.14 et seq., MPP 42-302 et seq., ACL 03-21, and ACL 02-70 for a discussion of notice requirements for the 60-month time limit and 60-month time limit exemptions.

deprived of one parent's support), financial eligibility (income and asset rules), and the homeless assistance payment rules. MPP 42-715.511.

"Abuse" can include victims of both intimate and stranger violence. Examples include actual or threatened physical or sexual abuse, mental abuse, deprivation of medical care, and stalking. WIC § 11495.25; MPP 42-701.2(d)(3) and (4). "Abuse" can be proven by the applicant's own sworn statement. WIC § 11495.25; MPP 42-715.12.

ENSURING THE FULL RANGE OF BENEFITS FOR LIMITED ENGLISH PROFICIENT RECIPIENTS

The absence of adequate interpretation and translation services is a major hurdle for non-English speaking applicants and recipients. Facing not only barriers in the application and continuing eligibility processes, limited English proficient (LEP) clients are also at a disadvantage in negotiating decent welfare to work plans and accessing supportive services. State and federal law do provide some handles for intervening on behalf of LEPs.

Under the Dymally-Alatorre Bilingual Services Act and its implementing regulations (in the public assistance context, Division 21 of the MPP), the State Department of Social Services (DSS) is required to translate written materials, including notices of actions and other important documents, into any non-English language which is spoken by 5% or more of the persons served by the agency. Govt. Code § 7296 et seq. Under Dymally, agencies must also hire sufficient bilingual staff and provide written translations of materials. Govt. Code §§ 7293, 7295, 7295.2. Unfortunately, agencies need only to provide language services required under Dymally to the extent that funding is available. Govt. Code § 7299.

However, if the Dymally-Alatorre Act is not as strong as one would hope, Govt. Code § 11135, which covers all state-funded agencies, does prohibit the denial of and discrimination in public benefits programs based on ethnic identification, which arguably includes language discrimination. In an appropriate case, advocates can argue that the failure to provide translation services, notice in the recipient's first language, or failure to offer certain services (such as job training programs) to non-English speakers deprives the recipient of the equal access guaranteed by § 11135.

Another tool is found in state regulations. County welfare departments are agents of the state in dispensing public assistance, and MPP § 21-115.2 requires the county to use forms that are in recipients' primary language when such forms have been translated by DSS, a requirement often honored only in the breach. Advocates should periodically seek a list of translated forms and instructions and use the failure to use such documents as, in effect, resulting in the lack of adequate notice to recipients of particular county actions.

Finally, Title VI of the Civil Rights Act of 1964 prohibits discrimination based on national origin when federally-funded social services agencies, such as DSS or the county, fail to provide oral and written translation of information to LEPs. The Department of Health and Human Services

(HHS) and the Department of Justice (DOJ) recently published policy guidances reminding and clarifying existing legal obligations of state and local welfare departments to provide language services, and requiring them to “take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.” 67 Fed. Reg. 41455, 41459 (2002). Such steps include the duty to ensure that oral language services are provided by competent interpreters in a timely manner (Id. at 41461, 41464); that “[v]ital written materials” such as consent or complaint forms and notices of action be translated into languages frequently-encountered by the agency (Id. at 41463); and that even if the language group served or likely to be served by the agency is small, to provide competent oral interpretation of written materials. Id. at 41464.

In addition, HHS has also set forth requirements for Title VI compliance. Welfare programs are barred from using criteria or methods of administration which discriminate on the basis of national origin (45 C.F.R. § 80.3(b)(2),) or restrict “any individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving the service, financial aid, or other benefit under the program.” 45 C.F.R. § 80.3(b)(1)(iv) (emphasis added). Ensuring that LEP persons can communicate effectively with their welfare program is critical to providing meaningful access to LEP persons. 67 Fed. Reg. 4968, 4971 (“HHS Policy Guidance”). HHS mandates that LEP persons be given adequate information so that they are able to understand the services that are available and the benefits for which they are eligible. Id. As discussed in the DOJ Policy Guidance, welfare departments are required to provide trained and competent interpreters in a timely manner. Id. at 4973. Similar to the DOJ Guidance, HHS’ safe harbor provision do not relieve welfare departments of the obligation to provide competent oral interpretation of written materials. Id. at 4973.

While it is true that the U.S. Supreme Court has ruled that an individual recipient cannot sue to enforce these federal requirements,¹⁴ violations can be raised at state hearings appealing a county action, or in a civil rights complaint to the appropriate county, state or federal civil rights watchdog.

HOW POOR MUST A FAMILY BE TO RECEIVE CalWORKs?

An otherwise eligible family can receive benefits only if it is financially eligible. This is determined by looking at the family’s non-exempt resources and income. Generally, “resources” include the assets a family already owns at the beginning of a three-month quarter, while “income” is what the family receives (from wages, interest, etc.) during the quarter.

Resource Limits

The former AFDC property (resource) limits have been replaced in CalWORKs by the Food Stamps property (resource) rules. WIC § 11155; ACL 97-66. To receive CalWORKs benefits, a client need not sell everything s/he owns. Moreover, an applicant or recipient may have up to \$2,000 (\$3,000 if over age 60) in cash, bank accounts, stocks, certificates of deposit, etc. 7 CFR § 273.8(b).

¹⁴ *Alexander v. Sandoval*, 532 U.S. 275, 286 (2001).

In general, a resource must be “accessible” to the family in order to be counted, that is, actually as well as legally available for its support. For example, irrevocable trust accounts, rental security deposits, or real property on the market for a reasonable price but which has not yet been sold, are not counted as resources. 7 CFR § 273.8(e)(8); MPP 42-213.

Specific Exempt Property

■ Home, Household Goods and Personal Effects, and Miscellaneous Exemptions

The client may also keep a home, household goods (TV, etc.), personal effects (clothing or jewelry), a burial plot, a life insurance policy or pension fund (excluding an IRA), income producing property (although the income produced will be counted as income), tools needed for employment, energy assistance or disaster relief payments, and other miscellaneous resources. 7 CFR § 273.8(e).

Recipient families may also retain savings of up to \$5000 for specific educational or job-related purposes. WIC § 11155.2. 7 CFR § 273.8 lists all property which is to be excluded in the federal Food Stamp program, and the state regulations containing the Food Stamps resource rules are found at MPP Parts 42-213, 63-501, 63-506 and 63-507. See also Appendix III to this manual.

■ Irrevocable Trusts

Generally, resources having a cash value that is not accessible to the household, such as irrevocable trusts, are not considered resources. 7 CFR § 273.8(e)(8). However, several requirements must exist before a trust can be considered exempt: (1) the trust arrangement must not be likely to end, and no household member can have the power to revoke the trust or change the name of the beneficiary; (2) the trustee administering the funds must be an individual appointed by a court, or an institution, corporation, or organization which is not under the direction or ownership of any household member; (3) trust investments made on behalf of the trust must not directly involve or assist any business or corporation under the control, direction, or influence of a household member; and (4) The funds held in irrevocable trust must either have been (a) established from non-household funds and the trust created by a non-household member, OR (b) created from the household’s own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the household creating the trust.

■ Automobiles

If a client owns a car, its fair market value (the “Blue Book” value) cannot be more than \$4,650, with some exceptions. 7 CFR § 273.8(e)(3), (e)(13). However, if the car is such a wreck that no one would reasonably pay more than \$1,500 for it, or where the client owes a lot of money on the vehicle and its estimated return to the client after sale (“Blue Book” value less the amount owed to the bank) is \$1500 or less, the car will be exempt from the resource calculation because it will be considered an inaccessible resource. 7 CFR § 273.8(e)(3)(G); MPP 42.215.431(h); ACL 01-24, 01-29. For example:

- (1) Let's say that the client owns a car worth \$6,000 but still owes the bank \$4,000. In this case, the first \$4,650 will be counted against the car resource limit, leaving a balance of \$1,350. This amount will be applied towards the general \$2,000 property limit, and the client will still be eligible for CalWORKs if the value of all his or her remaining countable resources is below \$650 (\$2,000 less the \$1,350 excess value of the car leaves \$650).
- (2) On the other hand, if the client owns a car worth \$6,000 but owes the bank \$5,000, the car's value would be exempt because its estimated return after sale ("Blue Book" less the bank's share) is under \$1,500.

Other Exceptions: The total value of a vehicle will be exempt if it is used for income producing purposes (such as by a farmer or cab driver), long distance travel essential to employment (such as by a migrant farm worker), transporting a disabled household member (including an SSI recipient child), transporting otherwise unobtainable heating fuel or water, or as a home. 7 CFR § 273.8(e)(3); MPP 42-215.431; ACL 00-06.

Disposing of a Resource for Less than Fair Market Value

A recipient who disposes of property for less than fair market value to retain eligibility for benefits will be disqualified for the number of months in which the "needs standard" (see below) divides into the difference between the fair market value of the property and any sum received for the property (with the resulting figure rounded down to the next whole number). WIC § 11157.5; ACL 97-66. This rule applies only to those who are already receiving benefits, and not to new applicants. ACL 97-66.

"Lump Sum" Payments

Lump Sums – personal injury awards, inheritances, retroactive government benefits, or similar windfalls received by a recipient – can be considered a "resource" or "income" at different times. Non-recurring "social insurance payments" such as retroactive Social Security, Workers' Compensation, or Veteran's Administration benefits will be treated as resources when received, and the CalWORKs recipient will be ineligible until all of the family's countable resources, including these social insurance payments, have been depleted below the \$2,000 resource limit. WIC § 11157.

All other "lump sums" received, such as inheritances or personal injury awards, will be considered income in the month received (and counted under the rules set forth below), and as a resource in each following month. WIC § 11157. The former AFDC "lump sum rule," under which the lump sum was considered income for the number of months that the AFDC need standard divided into the lump sum, has been abolished.

Because the AFDC program no longer exists, former AFDC recipients subject to such a "period of ineligibility" imposed on or after November 1, 1996 are eligible for CalWORKs even if the family would still continue to be ineligible for AFDC. ACL 98-18.

Income Limits

The amount of money an applicant family is allowed to receive each month and still be eligible for CalWORKs depends upon how many people are in the family and the source of the income. Certain income is excluded in determining a family's eligibility. Commonly seen examples include:

- SSI benefits¹⁵ (the SSI recipient will not be included in the CalWORKs “Assistance Unit”, and will not receive CalWORKs benefits). WIC § 11005.5. MPP 44-133.21; ACL 97-59.
- Earned Income Tax Credits. 7 CFR § 273.8(e)(12).
- Federal and state student loans, public and private scholarships, and work-study income. WIC §§ 11008.9, 11008.10, and 11157; MPP 44-111.25; ACL 98-85.
- Federal Relocation or Disaster Relief benefits. 7 CFR §§ 273.8(e)(7); WIC § 11008.6.

Other income sources that are not counted are listed at MPP 44-111, et seq., and Appendix III of this manual.

Determining Whether an Applicant is Eligible

In determining whether an applicant is eligible, all other sources of countable income, aside from wages, are deducted dollar for dollar from the CalWORKs “minimum basic standard of adequate care” for a family of that size. WIC § 11450.12(a). This “needs standard” and the maximum aid grant are set forth in the charts on page 16. The “needs standard” amount is higher than the maximum grant the family would receive if it had no other income.) Thus, if a client with two children living in Region 1 receives \$1000 from State Disability benefits in a month, she is ineligible for CalWORKs because the \$1000 is greater than the \$953 per month needs standard.

An applicant's monthly income from wages or salary is counted dollar for dollar after a \$90 earned income disregard has been deducted. If the amount left over exceeds the need standard for a family of the same size, the family is ineligible. For example, if an applicant with two children living in Region 1 receives \$1000 in wages each month, she is eligible for CalWORKs because the \$910 in countable income is less than the \$953 needs standard for a family of three. WIC § 11450.12(a); see MPP 44-133.54 for other examples of how income is counted in determining eligibility.

¹⁵ A person who “receives SSI/SSP” or who is an “SSI/SSP recipient” is someone who is considered to be receiving Supplemental Security Income benefits and has special SSI eligibility status under 42 U.S.C. Section 1382h(b). ACL 01-35.

Once an applicant is found to be eligible for benefits, the actual amount of the CalWORKs grant the applicant will receive is calculated differently.

How Much Will a Recipient Receive?

The amount of the CalWORKs grant an applicant will receive depends on whether the family's net non-exempt income exceeds the maximum CalWORKs grant payable to a family of equivalent size. The aid paid will be the difference between the maximum grant amount payable, and the family's countable income regardless of whether a particular family member will be included in the "Assistance Unit" for which the grant is paid. WIC §§ 11450.12(b), 11451.5; ACL 97-59.

"Family Cap" on the Grant Amount (also known as "Maximum Family Grant")

A family which has continuously received benefits for more than ten months will not receive an increase in its grant when a new child is born after September 1, 1997; unless the child was conceived as a result of rape (as defined by Penal Code §§ 261, 262) or incest reported prior to, or within three months of, the birth of the child; or because of contraceptive failure despite sterilization of either parent or use of an intrauterine device or a Norplant. WIC § 11450.04; MPP 44-314.2; ACL 97-42. If the family was not on aid for two months during the ten months prior to the birth, the family cap does not apply since benefits were not "continuously received" for the requisite period. WIC § 11450.04(a); MPP 44-314.2. Moreover, if the family goes off aid for 24 months and then reapplies, the family cap, or "Maximum Family Grant" policy, no longer applies so long as the child has lived with the family during this period. WIC § 11450.04(d)(1).

On the other hand, any child support received by the recipient or the county for the support of a child unaided because of the family cap cannot be kept by the county, but must be given to the parent for the support of the child. Moreover, because it is earmarked for the unaided child, it cannot be counted as income to the Assistance Unit. WIC § 11450.04(e). Additionally, derivative benefits from Social Security or other government programs based on the absent parent's disability or retirement and paid to or on behalf of the MFG child, will be counted as child support and will not be counted as income to the AU. MPP 44-314.62; ACL 01-16.

Importantly, the MFG rule applies only if the county has previously notified the assistance unit, in writing, of the rule at least 10 months before the birth of the MFG child. MPP 44-314.31; ACL 00-78. Lack of prior notice has been key to invalidating attempts to apply the MFG rule.

New State Residents are Given the Same Amount of Benefits as Other Residents

Although WIC § 11450.03 authorizes extending to new state residents the amount of benefits which would have been given the family in the state in which they previously lived, the U.S. Supreme Court found that the rule unconstitutionally discriminated against non-residents. *Saenz v. Roe*, 526 U.S. 489 (1999)

**MONTHLY NEEDS STANDARD, MAXIMUM BENEFIT RATES, AND EARNED
INCOME ELIGIBILITY LIMITS (as of October 2005)**

Family Size	Region 1* Needs Standard (MBSAC)	Region 1 Maximum Benefits (caretaker not disabled)	Region 1 Maximum Benefits (disabled caretaker or child only)**	Region 1 Earned Income Limit***	Region 2 Needs Standard (MBSAC)	Region 2 Maximum Benefits (caretaker not disabled)	Region 2 Maximum Benefits (disabled caretaker or child only)**	Region 2 Earned Income Limit***
1	\$ 469	\$ 359	\$ 398	\$ 941	\$ 445	\$ 340	\$ 378	\$ 903
2	\$ 769	\$ 584	\$ 653	\$1391	\$ 732	\$ 555	\$ 623	\$1333
3	\$ 953	\$ 723	\$ 808	\$1669	\$ 906	\$ 689	\$ 771	\$1601
4	\$1113	\$ 862	\$ 961	\$1947	\$1078	\$ 821	\$ 916	\$1865
5	\$1293	\$ 980	\$1094	\$2183	\$1229	\$ 934	\$1045	\$2091
6	\$1453	\$1101	\$1229	\$2425	\$1382	\$1049	\$1172	\$2321
7	\$1596	\$1210	\$1350	\$2643	\$1516	\$1150	\$1288	\$2523
8	\$1739	\$1318	\$1473	\$2859	\$1654	\$1255	\$1403	\$2733
9	\$1885	\$1424	\$1591	\$3071	\$1788	\$1356	\$1518	\$2935
10	\$2046	\$1530	\$1709	\$3283	\$1946	\$1456	\$1629	\$3135

*"Region 1" consists of Alameda, Contra Costa, Los Angeles, Marin, Monterey, Napa, Orange, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, and Ventura Counties. All other counties are in "Region 2."

"MBSAC" is the "Minimum Basic Standard of Adequate Need" for a family of a given size, as determined annually by the legislature and set forth at WIC § 11452.

** These are the benefit rates for households headed by a disabled caretaker, or an assistance unit consisting only of child(ren).

*** Assumes the family receives no "disability based unearned income. These families are entitled to exempt the first \$225 of monthly earned income plus one-half of the remaining monthly earned income. Note that with the earned income at this maximum level, the family will only be entitled to a \$ 0.50 grant. No cash benefits are issued for less than \$10.00. WIC § 11450.8. However, the family should qualify for Medi-Cal and other benefits, such as CalWORKs linked child care assistance.

Different Grant Amounts are Paid in Different Regions, and within regions, Different Amounts are Paid to Disabled and Non-Disabled Recipients or to Child Only Assistance Units

Both the needs standard and the maximum grant paid to families changes depending on which part of the state the family lives in. Urban "Region 1" counties (including the greater Bay Area) have a higher standard, while predominantly rural "Region 2" counties share a lower standard. WIC § 11450.018.¹⁶

¹⁶ Region 1 includes Alameda, Contra Costa, Los Angeles, Marin, Monterey, Napa, Orange, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, and Ventura counties. All others are in Region 2. While a county can opt to use its own funds to increase benefits, none have done so. WIC § 18234.

Moreover, the maximum grant given families in either region will be slightly higher if all of the parents or caretaker relatives living with the aided child (a) are disabled and receiving Supplemental Security Income, In-Home Supportive Services, State Disability Insurance, or Workers' Compensation Temporary Disability; or (b) are non-parent caretakers who are not members of the Assistance Unit. WIC § 11450.019. The rationale for this distinction is supposedly that a reduced grant for a non-disabled adult recipient will encourage work.

The tables on the previous page set forth the respective needs standards, maximum benefits for families headed by disabled and non-disabled caretaker relatives, and maximum earned income levels to retain eligibility for CalWORKs. A family eligible for only a relatively low amount of cash benefits should seriously consider not applying for CalWORKs since each month that benefits are received will count towards the 60 month lifetime limit.

How is Monthly Income Counted for Grant Calculation Purposes?

Countable unearned income is deducted dollar for dollar, while only a portion of unearned disability-based income (Social Security Disability Insurance benefits (SSDI), Workers' Compensation temporary benefits, State Disability Insurance benefits (SDI), and private disability benefits) and earned income (wages and salaries) is counted. Each month, the county will deduct from the family's gross income:

- the first \$225 of disability based unearned income
- earned income which, when added to any disability based unearned income, adds up to \$225
- 50% of the remaining earned income

The remaining sum is the "net non-exempt income" which will be subtracted from the maximum aid payable to a family of comparable size. WIC § 11451.5; MPP 44-113.2. Examples of how the rules are applied to compute the grant are found at MPP 44-133.54.

Thus, if a two-parent recipient family with one child receives \$400 in SDI benefits and \$400 in earnings, the family's grant will be calculated as follows:

\$400 SDI less \$225	=	\$175 in countable disability based unearned income
\$400 wages less 50%	=	\$200 in countable earned income
\$175 + \$200	=	\$375 countable (net non-exempt) income
\$723 Region 1 maximum grant (lower benefit rate because only one parent is disabled)		
minus \$375	=	\$348 CalWORKs grant paid to the family

Unlike the former AFDC program, there is no deduction for child care expenses taken from the family's income. Instead, the county directly pays the child care provider for care needed by a recipient who is participating in welfare to work activities. Education Code § 8357; ACL 97-73.

Families with earned income below that listed above will receive only a portion of the CalWORKs grant, and may be ineligible if the family has other countable income. The county must explain to the client in writing the reasons for the denial and the client has a right to challenge the denial by requesting a hearing.

If a family member finds a job while on CalWORKs that pays more than the limit for the family's size, the family may still be entitled to up to twelve months of MediCal and up to at least two years of child care. WIC § 14005.8; ACL 97-73.

Quarterly Reporting: Counting the Family's Income

Beginning with pilot projects launched in November, 2003, the state introduced a "quarterly reporting" system to replace the former "prior month budgeting" reporting system. In May, 2004, quarterly reporting was implemented throughout the state. Under prior month budgeting, the county assumed that, for a family which had received CalWORKs for two months, the amount of non-CalWORKs income received in month one would be presumed to be the amount of such income which would be received in month three, calculating the family's grant for month three on that basis. Under prior month budgeting, a recipient family was required to report its income by the 10th of each month so that the county could calculate the grant amount to be received two months hence. See former MPP 44-313, et. seq.

■ Reporting Requirements During a Quarter

Although recipients are generally only required, once every three months, to report current and prospective income and resources, and to identify the family members composing the assistance unit, there are exceptions. The recipient is also required, within ten days, to report if any of the following happen: (1) the assistance unit receives income in an amount which is likely to make the family ineligible for CalWORKs; (2) a family member is convicted of a drug felony; and (3) a family member is a fleeing felon or probation or parole violator. WIC §§ 11265.3(a). An increase in income is likely to render the family ineligible if the family's total income exceeds its "Income Reporting Threshold" ("IRT"), defined as the greater of 130% of the Federal Poverty Level for a family of the same size *or* that amount which renders the family financially ineligible for CalWORKs. MPP 44-316.324(c); ACL 03-18, p. 32.¹⁷

¹⁷ 130% of FPL is the income maximum for the Food Stamp Program (7 CFR §273.9(a)(1)(i)). Each year, the state publishes this amount for families of a particular size. The most recent figures are set forth in ACL 05-27 (November 1, 2005). The maximum earned income limits for CalWORKs recipient families of a given size are set forth in the chart on p. 15. The amount stated, plus \$2, will make the client ineligible for CalWORKs.

■ **Calculating the Monthly Grant for the Following Quarter**

Under quarterly reporting, the amount of income received by the assistance unit in the second month of a three month quarter, as well as the amount the recipient anticipates receiving during the following month, is reported to the county on the “QR7” form by the 11th day of the third month. WIC §§ 11265.1.¹⁸ If the recipient does not report any anticipated changes in income during the following quarter, the county will calculate the monthly grant for the following quarter based on the income reported received in month two. MPP 44-313.111, 44-315.31. If the recipient reports an anticipated change the amount of income s/he will receive in the following quarter, the county will determine whether the anticipated change is reasonably certain, and will calculate the monthly grant for the following quarter on the assumption that the anticipated income will be received. WIC §§ 11265.2; MPP 44-313.111; ACL 03-18, pp. 21-23. Fluctuating income is averaged according to a formula set forth at ACL 03-18, pp. 27-31.

■ **Changes in the Grant Amount During the Following Quarter**

Unlike the former prior month budgeting scheme, the monthly grant during the following quarter will not be *decreased* unless (1) a caretaker relative is discontinued because of the 60 month time limit; (2) a child is discontinued because s/he reaches the maximum age limit for assistance; (3) a family member is sanctioned; (4) the assistance unit reports that its income has increased to the point that the family is financially ineligible for CalWORKs; or (5) the AU reports that member is a fleeing felon, parole violator, or drug felon. WIC §§ 11265.2(e), 11265.3(a)(1); MPP 44-316.31, 44-316.321, 44-316.324 (recipient ineligibility factors), 44-316.331 (county-initiated actions).

On the other hand, the monthly grant during the following quarter will *increase* if the recipient reports a decrease in the assistance unit’s income or a new member of the assistance unit, and, within ten days of receiving verification of the report, the county is required to revise the current month’s grant and the grant for the balance of the quarter based on the new information. WIC §§ 11265.3(d). This provision obviates the need for the “Reduced Income Supplemental Payment” (former WIC § 11450.2), which in any event, only supplemented the reduced income up to 80% of the Maximum Aid Payable. The new provision essentially provides for supplementation up to 100% of the Maximum Aid Payable.

Who Can Receive Benefits?

CalWORKs is paid to an “Assistance Unit” of the appropriate size. The “AU” must include the aided child, and those of her or his parents and brothers and sisters living with the child. WIC §

¹⁸ The QR 7 is required to ask about “any other changes to facts required to be reported,” (WIC § 11265.1(d)(2)), including family composition, and the recipient family’s resources, which also is only required to be reported once during the quarter. ACL 03-18, pp. 16-17. Even if the family’s resources exceed the limit sometime during the quarter, the county has no authority to discontinue or decrease benefits on that basis. *Ibid.*, p. 17, MPP 44-316.31. MPP 44-352.111 further provides that an excess property overpayment will not be assessed so long as the resource is spent down under the limit before the first day of the next quarter.

11450(a). The purpose of including these relatives is to ensure that the income and resources of the immediate family are used to support the aided child. Family members receiving SSI are exempted from this rule, since federal law requires that their benefits be used solely for their support.

At the relative's option, the AU may include other non-parent caretaker relatives such as grandparents, or stepparents (the spouse of the caretaking parent). WIC § 11203. However, even if these relatives opt not to be members of the AU, their income will be counted if they have a legal duty to support a member of the AU. For example, Family Code §§ 3930, 4300 and 4301 require the grandparents to support their live-in minor mother daughter, and requires a stepparent of an aided child to support his or her spouse who is the parent of the live-in aided child. Accordingly, their income is considered available to determine both initial eligibility for CalWORKs, as well as the amount of the grant received by the Assistance Unit. WIC § 11008.14; ACL 97-59.

Whose Income Counts and How is it Counted?

The income of anyone who is legally obligated to support the parent or child(ren) on the application, and that of everyone living in the CalWORKs unit (or who would be in the unit but for their being sanctioned), is counted as income of the assistance unit. WIC § 11008.14; ACL 97-59 and 98-17.¹⁹ This includes:

- The child needing assistance, and their brothers and sisters under age 19²⁰,
- Parents or adoptive parents (of the aided children).
- Step-parents (of the aided children), e.g., spouse of the caretaker,
- Siblings (of the aided children),
- Parents of minor parents if living together, e.g., grandparents of the aided grandchild (their income will be considered available to the minor parent and their grandchildren²¹. MPP 89-201.5 et. seq.; ACL 03-20, 02-94.), and

¹⁹ See the discussion on the “Family Cap” (known in California as the “Maximum Family Grant” policy or “MFG”) for the treatment of income earmarked for the support of new-born children who do not receive aid because the grant will not be increased. Generally, all income is counted except child support paid for a new child subject to the MFG rule.

²⁰ Although siblings of the aided children under age 19 are required to be members of the Assistance Unit, their earnings will not be counted if they are full time students (MPP 44-111.221(a), or half-time students working less than 173 hours per month (MPP 44-111.222(b)).

²¹ This modifies the old rule (based on the understanding that a grand-parent had no legal duty to support her or his grand-child) that no income from a senior parent could be deemed to a minor parent's child. If members of all three generations live together and receive CalWORKs, each member's income will be considered available to support all other members of the

- Sponsors for immigrants who have just come to the country (sponsors have an obligation to support the immigrant for at least the first three years that they are in this country).

Except for the sponsors of immigrants, the income of these family members living together will be counted under the formulas outlined above. This is true whether or not all family members are members of the AU.

For example, assume a family of four in Region 1 which is made up of husband, wife, the child of the husband, and the child of the wife (unrelated to stepfather's child). The wife earns \$900 gross per month and the husband is an unemployed recipient. Will the family be eligible for CalWORKs? If so, how much of the wife's income will be considered available to support her applicant husband if the wife and her child elect to remain outside of the AU? Finally, will it be more advantageous if all family members are in the AU?

The Family's Eligibility

Wife's gross earned income	=	\$900
less \$90 disregard	=	\$810

Since this \$810 is less than the needs standard for a family of four (\$1113 in Region 1), the family will be eligible for CalWORKs. The amount of the family's grant will be calculated as follows:

The Family's Grant

Husband's income	=	\$ 0
Wife's income	=	\$900
Total gross income	=	\$900
less income disregards:		
\$ 0 (disability based unearned income)	=	\$900
\$225 (earnings)	=	\$675
less 50% of remaining earnings	=	\$337.50

This \$337.50 can be treated as either:

- (a) the amount contributed by the spouse for the support of her husband if she opts out of the AU, or

- (b) the amount of countable (net non-exempt) income available to the family if she opts into the AU

$$\begin{array}{rcl} \$862 \text{ (benefit rate for a family of four)} & & \\ \text{less } \$337.50 \text{ (countable income)} & = & \$524.50 \text{ (amount of the} \\ & & \text{family's grant)} \end{array}$$

$$\begin{array}{rcl} \text{Total family income } (\$900 \text{ earnings} + \$524.50 \text{ CalWORKs benefits}) & & \\ & = & \$1424.50 \end{array}$$

“Deeming” the Assets and Income of a Sponsor as Available to Support a Sponsored Immigrant

A sponsored non-U.S. citizen immigrant applying for CalWORKs is “deemed” to be receiving from his or her sponsor sufficient income and resources for the ongoing support of non-citizen's family. WIC §§ 11008.13; MPP 43-119.22. The non-citizen is required to gain the sponsor's cooperation in determining the degree of support. MPP 43-119.23. In general, deeming works like this:

■ Deemed Resources

In general, the value of the countable assets of the sponsor -- as determined under the rules applied to all CalWORKs recipients -- is divided by the number of immigrants the sponsor has sponsored. The result is the value of the resources which is presumed available to support a non-citizen applying for benefits. If that result is above the CalWORKs resource limit, the non-citizen will be ineligible. MPP 42-205.5.

■ Deemed Income

Similarly, the total monthly earned and unearned income of the sponsor is divided by the number of non-citizen he or she has sponsored. The result is the amount of income which will be deemed to be available to support each non-citizen. This deemed income will be counted as “unearned income” and deducted dollar for dollar from the grant amount which the non-citizen applicant's family would otherwise receive. MPP 44-133.7. In many cases, sponsor deeming will render the applicant ineligible to receive benefits.

Limited exemptions to sponsor deeming are available for certain applicants escaping domestic violence, as well as families abandoned by their sponsors. MPP 43-119.221 and 222. These exemptions are explained on pages 4 through 6 of this manual.

Counting the Income of an Unaided Family Member to the Recipients

The income of a family member who (a) lives with the CalWORKs recipient or applicant, and (b) is legally obligated to support a member of the Assistance Unit is counted to some extent as

the income of the aided family, even if s/he is not in the AU. This policy applies to live-in stepparents and parents of minor mothers (grand-parents of the aided child).

Suppose the working mother did not want to receive CalWORKs for herself or her child. (She doesn't have to since she is only the step-parent of her husband's "dependent child" applying for aid.) In that case, when the husband applies for CalWORKs, some portion of the wife's income will be available for the support of her husband. This is calculated by comparing the benefit rate for a family of two – husband and his child – to the benefit rate for a family of four. ACL 97-59 and 98-17.

Using the above example, we have a family of four which is made up of husband, wife, the child of the husband, and the child of the wife (unrelated to stepfather's child). The wife earns \$900 gross per month and the husband is an unemployed recipient. The amount of countable earnings remains the same, \$337.50. The county will then compare the benefit rate for a family of four less the countable income ($\$862 - \$337.50 = \$524.50$) to the benefit rate for a family of two without any countable income (\$584). The lowest amount (between \$584 and \$524.50) will be the amount of CalWORKs benefits the husband is eligible to receive. Hence, the unaided working mother is presumed to have contributed \$59.50 (\$584 less \$424.50) for the support of her spouse.

Considerations for Opting Into or Out of the Assistance Unit

The calculations for determining the grant amount of the family would be the same whether or not the stepparent/wife and her child are in or out of the AU. Hence, the decision to join the AU depends on such things as whether or not the wife or her child have health insurance (if not, MediCal is available; if so, the premiums may still be so high as to make MediCal attractive), or whether the wife wishes to subject herself to the scrutiny of the welfare department. The same considerations would apply in the case of a grandparent whose live-in minor daughter has a dependent child eligible to receive benefits.

The Live-In Boyfriend Contribution Requirement

A related problem is the situation where a non-parent adult, such as a boyfriend of the parent, lives with the family. Although this contribution is not counted as income to the AU, the adult is required to support him/herself to the tune of at least \$369 (in Region 1) or \$360 (Region 2) per month, and to cooperate with the welfare department in showing that the contribution is made. WIC § 11351.5; MPP 43-109.1, et seq. (As required by MPP 43-109.23, these amounts are based on the in-kind income tables found at MPP 44-115.311, and are the sums of the presumed value of free food, housing and utilities provided to an Assistance Unit of one person.)

Who Will Pay Benefits if the Recipient Moves to Another County?

If the family lives in another county, it must apply for CalWORKs in that county. WIC § 11102. If the family has just moved from another county in California, they may apply for an "Inter-County Transfer" and continue to receive aid from the county of prior residence until the new

county of residence picks up the case. WIC § 11053. This must occur within 30 days. WIC § 11102. The client will have to re-apply for Food Stamps in the county of new residence.

If the client has moved from another state, then s/he will have to start a new application in the county of new residence for both CalWORKs and Food Stamps.

WHAT OTHER BENEFITS ARE AVAILABLE TO A CalWORKs RECIPIENT?

Health Care (under the MediCal program)

CalWORKs recipients are entitled to receive MediCal, which has traditionally been a “fee for service” system in which recipients choose individual health care providers. WIC §§ 14005.1, 14050.2. In some counties, a CalWORKs recipient will have to enroll with a Health Maintenance Organization and will be given two plans from which to choose. If s/he fails to choose, the county will assign the family to a particular plan. WIC §§ 14016.5, 14087.3, 14087.305.

Immediate Need at the Time of Application

If an applicant has less than \$100 and needs money for food, rent, utilities or other basic needs and appears eligible for CalWORKs, the county must provide up to \$200 of “immediate need” money within two working days from the time the money is requested. If an immediate need check is issued, the county must process the CalWORKs application within 15 working days. WIC § 11266.

If the client is threatened with an eviction, including a three-day notice to quit, the county should process the whole application within three working days and give the client the full benefits to which s/he is entitled to for that month. The client will be eligible for immediate need in this case, despite the \$100 resource test, if the client does not have the resources to cover the rent owed. WIC § 11266(c).

Clients can also get “expedited Food Stamps” within three days if they have a gross income of under \$150 or less than \$100 in assets. 7 CFR § 273.2(i)(1); MPP 63-301.531.

Pregnancy Benefits

Beginning with her seventh month of pregnancy, a pregnant woman with no other children is eligible to receive CalWORKs benefits for one person. She may also get an additional \$47 per month “pregnancy supplement” beginning in the same month. Proof of pregnancy is required. WIC §§ 11450(b) and (c); MPP 44-211.63, 44-211.64; ACL 00-45. A father who is the spouse of a pregnant woman without any other aided children cannot receive CalWORKs until the child is born, but may be eligible to receive General Assistance prior to the birth of the child.

Child Support \$50 Pass-Through

If the child support enforcement agency (formerly the District Attorney Family Support Bureau) is collecting child support for a recipient's child(ren), the recipient can also receive the first \$50 of child support collected each month if the child support payment is made on time. This sum is exempt income. WIC § 11457.3.

The child support payment is considered paid when the employer withholds it from the paycheck, even if the employer sends it to the child enforcement agency in quarterly payments. Advocates should contact the agency if their client is not receiving the \$50 pass-through and they know that the absent parent is having his/her pay checks garnished. The remainder of the child support payment goes to the state to reimburse the state for CalWORKs. The recipient can receive only one \$50 pass-through even if there is more than one absent parent paying child support.

Recurring Special Needs Payments

If one of the family members needs a special diet or special transportation services due to a disability, the client may be eligible for up to \$10 extra each month. WIC § 11450(e). These monthly supplemental payments are called "recurring special needs."

Non-Recurring Special Needs Payments

There are also payments for "non-recurring special needs." This money is available for household emergencies, and may be used to replace clothing and other items, pay for shelter or moving costs, or as homeless assistance if the family is not eligible for regular homeless assistance. The family must have less than \$100 to qualify. The maximum payment is up to \$600 for each emergency. WIC § 11450(f)(1).

Homeless Assistance Payments

A homeless family may also receive "homeless assistance" payments. A family is considered homeless if it lacks a fixed and regular nighttime residence, is in a shelter, or is residing in a public or private place not designed for, or ordinarily used as, regular sleeping accommodations. WIC § 11450(f)(2). A family staying temporarily with friends or family or in a hotel is considered homeless.

Homeless Assistance includes temporary benefits (\$40 per day for 16 days)²² and permanent benefits (the first month's rent and deposits, each month not to exceed 80% of the recipient's CalWORKs grant amount unless a shared rental is involved). These payments are in addition to the regular CalWORKs grant and are not counted as income. A request for Homeless Assistance must be processed within one working day. WIC § 11450(f)(2).

Temporary Homeless Assistance

²² Counties can opt to use local funds to increase the maximum amount of temporary Homeless Assistance payments.

Temporary Homeless Assistance is available to a CalWORKs eligible family (whether or not it is already on aid) that is homeless, or has been staying with friends or family for fewer than 60 days, or that is being evicted. The family is not eligible until it has actually left its last home, and can only get this money if it is paying, or will be paying, for shelter and the person providing shelter is in the rental business. WIC § 11450(f)(2)(I). If the family is apparently eligible for CalWORKs, or is already receiving CalWORKs, and has less than \$100 liquid resources, it will receive:

- \$40 per day for up to 16 consecutive days, plus
- an additional \$10 per person per day (to a maximum of \$80), for families of five persons or more. WIC § 11450(f)(2); MPP 44-211.525(b); ACL 99-69.

The family must document that it used the benefits or housing. Otherwise, additional temporary Homeless Assistance will be paid as a voucher to the housing provider. WIC § 11450(f)(2)(A)(iii); MPP 44-211.524(f)(3)(B).

The county must either provide Temporary Homeless Assistance on the day requested or find shelter for the family for the first night. If it shelters the family, it must issue benefits no later than the end of the next working day. WIC § 11450(f)(2)(A); MPP 44-211.523. To continue receiving Temporary Assistance, clients must provide documentation of its search for permanent housing. The client is required to make one contact with a prospective landlord per day. MPP 44-211.524(f)(3). For example, if the Temporary Assistance money was issued for three days, the client needs to make three contacts with prospective landlords. The client does not literally have to make one contact per day; three in day one and none in day two is acceptable.

Permanent Housing Assistance

This assistance is available for homeless families who have actually established eligibility for CalWORKs. MPP 44-211.53 and 534(b). Payments may be used for:

- last month's rent
- security deposits
- utility hook-up costs

To qualify, the family's share of rent at the new apartment or home must be less than 80% of the CalWORKs grant. Permanent Homeless Assistance must be paid within one working day after the family provides a written agreement stating the landlord intends to rent to the family, and information necessary for the welfare department to establish eligibility for CalWORKs. The family must rent from an "official" landlord and not from a friend or relative unless that person regularly rents out property. The family may apply for utility hook-up costs after it has moved in. If a member of the family is receiving SSI, the available grant is prorated according to a specific formula. WIC § 11450(f)(2)(B); MPP 44-211.531, et seq; ACL 01-43.

Homeless Assistance is Usually Available Only Once in a Lifetime

Both temporary and permanent Homeless Assistance benefits are generally only available on a once-in-a-lifetime basis (with the 16-day time limit for temporary benefits considered exhausted regardless of whether benefits were collected for the full 16 days). However, both temporary and permanent Homeless Assistance are available once every 24 months where the homelessness is the result of:

- a state or federally declared natural disaster;
- domestic violence by a spouse, partner or roommate;
- a medically verified physical or mental illness not involving alcoholism, drug addiction or psychological stress; or
- uninhabitability of the home resulting from sudden and unusual circumstances such as fire, condemnation, or natural catastrophe. WIC § 11450(f)(2)(E).

Replacing Lost Checks

A request for a replacement check must be accepted by the county after the passage of five working days after the lost check was originally issued. A replacement check must be released within five working days after the request has been made, and whether or not the original check has been cashed. Government Code § 29853.5(b); ACL 00-24.²³

HOW ARE BENEFITS OVERPAYMENTS AND WELFARE FRAUD TREATED?

Overpayments

The county will attempt to recovery any benefits which were incorrectly paid to a family, even if county error was the cause of the overpayment. WIC § 11004(d) and (f).

The Amount of the Overpayment

■ Resource Based ...

Under quarterly reporting, a recipient is not required to report if the family's resources go over the resource limit during a quarter. Even if the recipient voluntarily reports the increase during

²³ In *Quilla Beverly v. Anderson*, 76 Cal. App. 4th 480 (3d Dist. 1999), the court reiterated that the statute creates a mandatory duty to issue a replacement warrant within five working days after a recipient files a proper affidavit attesting that the warrant has been lost, stolen or destroyed regardless of any investigation a county might initiate.

the quarter (before the quarterly report is due), the county will have no authority to assess an overpayment, or to discontinue or decrease benefits on the ground of excess resources. ACL 03-18, p. 17, MPP 44-316.31. MPP 44-352.111 further provides that an excess property overpayment will not be assessed so long as the resource is spent down under the limit before the first day of the next quarter.

The amount of an excess resource based overpayment, the amount overpaid will be the sum of benefits received in each month in which the assistance unit's resources were over the resource limit. An important exception to this rule is where the caretaker in good faith believed that the family was eligible for benefits. In this situation, the amount of the overpayment will be reduced to the amount by which the highest value of the resource exceeded the resource limit. WIC § 11020.

If, for example, the assistance unit owned a \$3000 bank account for six months, it will have been overpaid benefits for six months. If the AU received \$3000 in benefits during these months, that would be the amount of the overpayment. On the other hand, if the AU could show to the satisfaction of the county or an administrative law judge that the AU had a good faith belief that it was eligible for benefits during these six months, the overpayment would be reduced to \$1000, the difference between the bank balance and the \$2000 resource limit.

■ **Income Based**

Similarly, a recipient has no duty to report any increase in income occurring during a quarter unless that income exceeds the assistance unit's Income Reporting Threshold ("IRT"), e.g., the greater of the amount which would render the AU ineligible for benefits or 130% of the federal poverty level. MPP 44-316.324(c); ACL 03-18, p. 32.²⁴ If the recipient failed to report an increase in income which met the IRT, the AU would probably be ineligible for benefits in any months of the quarter during which the IRT was exceeded. Unlike in the AFDC program, all income disregards will be applied even if the excess income was not timely reported. ACL 97-67.

Recovery of Overpayments and Possible Defense of "Estoppel"

Overpayments will be collected from future CalWORKs benefits at different rates, depending on the degree of fault of the recipient in causing the overpayment. If the overpayment was caused by county error, 5% of the maximum amount payable to the recipient will be withheld to repay the overpayment. In all other cases, 10% of the maximum amount payable to the recipient will be withheld. WIC § 11004(c); ACL 97-66.

In some cases, a recipient can argue that the county is "estopped" from collecting the overpayment. See *Lentz v. McMahon*, 49 Cal. 3d 393, 399 (1989). The recipient must show:

²⁴ 130% of FPL is the income maximum for the Food Stamp Program (7 CFR §273.9(a)(1)(i)). Each year, the state publishes this amount for families of a particular size. The most recent figures are set forth in ACL 05-27 (November 1, 2005). The maximum earned income limits for CalWORKs recipient families of a given size are set forth in the chart on p. 15. The amount stated, plus \$2, will make the client ineligible for CalWORKs.

- That the county was apprised of the facts,
- That the county intended that its conduct or action was to be acted upon, or it acted in such a way that the recipient had a right to believe it was so intended,
- That the recipient was ignorant of the true state of the facts, and
- That the recipient relied on the county's conduct, to his or her detriment.

Since the recipient in most overpayment cases will not have been entitled to the benefits received, the hardest to prove of these elements has been the detriment to the recipient. The county will generally not be estopped from collecting the overpayment unless the recipient can show that had s/he been forewarned, something could have affirmatively been done to make her or him eligible for the benefits ultimately received.

Welfare Fraud Investigation and Penalties

“FRED” (Fraud Early Detection) Program

The FRAud Early Detection program is used when questions arise during the initial eligibility evaluation, when a client is first applying for CalWORKs, or at recertification. It is distinct from the investigations by the Special Investigative Unit (SIU). WIC § 11055.5 sets forth the criteria which must exist to trigger a FRED investigation.²⁵

Fraud Investigation and Penalties

Each month, CalWORKs recipients are required to report their open bank accounts and any income they receive in order to calculate the family's grant level. If income is not reported and is discovered, for example, through information received from the Internal Revenue Service or Social Security, the client's worker may refer the case to the Special Investigative Unit (SIU) for investigation and possible fraud prosecution. It is imperative that clients accused of fraud receive expert advice prior to meeting with the District Attorney's office or the SIU. Not only does the client face the potential for a civil case, but a criminal prosecution as well.

²⁵ The criteria set forth in WIC § 11055.5 are that the county believes that, in the applicant's case: (A) an overpayment could result from her/his failure to report pertinent information; (B) a “questionable situation” exists and s/he will not cooperate in providing verification of pertinent information; (C) conflicting information exists affecting his/her eligibility or the amount of benefits; (D) a situation exists which could involve “embezzlement, collusion, conspiracy, trafficking, black marketing, or any other program violations”; (E) s/he may have forged, or is involved in the forgery of, a benefits warrant; (F) s/he is alleged by any government agency to be involved in fraud; or (G) s/he is reported to be involved in a crime involving a social services program.

In addition, families who are found by a court or administrative law judge to have fraudulently received benefits may be discontinued from the program for at least six months, and even permanently, depending on the nature of the recipient's actions and the amount of benefits wrongfully obtained. WIC § 11486; ACL 97-69, 98-72. These sanctions will remain in effect until the fraud finding has been reversed by a court.

Fraud in the Context of Childcare

Child care fraud exists when there is evidence of intent on the part of the recipient or the child care provider to obtain services, or payment for services, to which they are not entitled. See ACL 00-53 for examples of what qualifies as child care fraud. In the case of an overpayment due to suspected fraud, the county cannot force recipients to repay overpayments by discontinuing their child care services. Furthermore, the county cannot offset a recipient's grant or child care without the recipient's agreement. See MPP 47-440.1 through MPP 47-440.17 for the regulations governing child care overpayments.

WHAT MUST SOMEONE DO TO CONTINUE RECEIVING CalWORKS?

To continue receiving CalWORKs benefits, a recipient must comply with school attendance, immunization and "welfare to work" requirements, must cooperate in establishing and collecting a child support award for the assisted child, and must comply with miscellaneous other rules. These and any other program requirements can be waived if compliance would make it more difficult for an abused recipient or her children to escape abuse, or which would be detrimental to, or would prejudice, the recipient or her children. WIC § 11495.15.

School Attendance

A child under 16 must attend school or the adult caretaker's benefits will be suspended. If a child 16 and over does not attend school, that child's benefits will be suspended. In addition, a minor mother or pregnant woman under 19 must earn a High School diploma or GED unless she has been expelled from school and there is no alternative school, or child care, or transportation available to her. Finally, a parent between 18 and 20 with a child under six months old must also be earning a High School diploma to avoid suspension. WIC §§ 11253.5, 11331.5(d), 11320.3(d); ACL 97-70.

Immunization

Parents of preschool children must also ensure that their children have been appropriately immunized. WIC § 11265.8; ACL 97-70.

Welfare to Work Activities

Applicants and recipients who are not exempt must participate in “welfare to work activities” whose aim is to enable them to become job ready before their 60 month time limit for receiving aid expires. These activities may include work and work experience, basic education and job training, the receipt of mental health, substance abuse and domestic violence services, and community service activities. WIC § 11322.6. While each county need not include all of the statutory options in its “welfare to work” plan, each is required to at least provide an “adequate range” of welfare to work activities, and may not limit them to job search and work experience (workfare)²⁶. WIC § 11322.7. Furthermore, MPP 21-115 and 42-711.115 require that Limited-English Proficient (LEP) individuals, while participating in welfare to work activities, must be provided with appropriate bilingual or interpretive services in a language which the individuals understand. ACL 00-30, 01-32.

■ **32 Hours of Welfare to Work Activity are Required of a Participant**

Until June 30, 1998, one-parent families were required to perform 20 hours of work activities (including community service) per week. This increased to 26 hours per week on July 1, 1998, and to 32 hours after July 1, 1999. Two parent families will be required to do 35 hours per week, but this can be met by both parents²⁷. WIC § 11322.8.

■ **Welfare to Work is No Longer Limited to 18 or 24 Months²⁸**

Under the rules in effect through November 2004, a participant was required to comply with his or her welfare to work plan adopted for up to a 18 or 24 months (depending on whether one was a new CalWORKs applicant or already a recipient) (former WIC § 11454(a)), and, if still receiving CalWORKs at the end of that period, to perform community service in the public or non-profit sector which provides job skills to the participant. Former WIC § 11454(a). Beginning in December, 2004, the 18 and 24 month welfare to work/community service structure was abolished. Under the new structure codified at WIC § 11322.8, a participant’s welfare to work plan is basically in effect for as long as s/he receives CalWORKs, with several caveats:

■ **“Universal Engagement” – Welfare to Work Plan required within 90 Days**

All CalWORKs recipients who are not exempt from welfare to work requirements (described beginning at page 35), are required to sign a welfare to work plan after their assessment and within 90 days of the date eligibility for benefits was established, or 90 days of the date the recipient is

²⁶ See also ACL 97-72 for detailed implementation guidelines for the CalWORKs welfare-to-work program.

²⁷ See ACL 02-31 for examples of welfare-to-work participation requirements and allowable welfare-to-work activities for two parent assistance units (AU).

²⁸ The state has not issued regulations as of May 2006, and the principal guidance from the agency is ACL 05-19 (August 22, 2005).

required to perform welfare to work activities, or 90 days of the date that the participant completed job search activities. WIC § 11325.21(a).

■ **The 20 Hour “Core Activity” Requirement**

First, at least 20 of the 32 or 35 hours of welfare to work activities required per week must involve “core activities. WIC § 11320.1(c): These include: employment, work experience, on-the-job training, work-study, self-employment, work-study, self-employment, community service, vocational education, or job search and job readiness assistance. WIC § 11322.8(c). The remaining hours can be distributed to the other activities described at WIC § 11322.6: adult basic education, job skills training or education related to employment, high school or GED course attendance, mental health, substance abuse or domestic violence services described at WIC §§ 11325.7 and 11325.8.

Second, vocational education and job search and job readiness assistance will only count as a “core activity” for twelve months. This means that while a participant can be in vocational education for more than the 18 or 24 months allowed under the old structure, s/he will have to be involved in at 20 hours per week of “work-like” activities to continue receiving benefits. WIC § 11322.8(c).²⁹

Third, mental health, substance abuse and domestic violence services can be counted toward the 20 hour core activity requirement if they are necessary to enable the participant to participate in the core activities outlined above. WIC § 11322.8(d).

Job Search, Assessment and creation of the Welfare to Work Plan

Under state law, the participant may, at county option, be required to initially do up to four consecutive weeks of job search. WIC § 11325.22(a)³⁰. If s/he still cannot find a job, an in-depth assessment of the participant's job education, experience, skills, and disabilities is made (WIC §§ 11325.22 and 11325.25), on which will be based the participant's “welfare to work plan.” WIC § 11325.22(b)(2). If the participant and her worker cannot agree on a work plan, another assessment will be done by an independent party with the resulting work plan binding on both parties. WIC § 11325.4(c). State law also gives a participant the right to request changes to the plan within three working days of having signed it (WIC § 11325.21(b)), and to request reassignment within 30 days. WIC § 11325.22(b)(5).

²⁹ Hours spent in classroom, laboratory or internship activities related to adult basic education, job skills training or education related to employment, high school or GED course attendance also count toward the 20 hour core activity requirement if they cannot be accomplished within the remaining non-core participation hours, the county determines that the participant's program is likely to lead to self-supporting employment, and the participant is making satisfactory progress in the program. WIC § 11322.8(e).

³⁰ Counties may opt to shorten the “job search” requirement for recipients suffering from emotional or mental disability. WIC § 11325.22(a)(1).

Employment and Other Work Experience

Based on the assessment, the “welfare to work plan” may assign a participant to perform subsidized or unsubsidized employment, internships, on the job training, or other work-like activities, so long as they are directed at obtaining job skills or unsubsidized employment for the participant. WIC § 11322.6. In these “core activities”, participants have the rights to:

- compete for job openings at the employment site. WIC § 11324.4(a).
- gain credit towards job seniority. WIC § 11324.4(b).
- a position which does not displace existing workers. WIC §§ 11324.6(a) - 11324.6(h).
- health, safety and representation protections given other workers at the job site. WIC § 11324.6(j).
- unpaid work experience limited to 12 months absent county and participant agreement. WIC § 11324.6(d).
- protection against discrimination on the basis of age, sex, race, religion, national origin, or disability. WIC § 11320.31.
- possibly, to receive benefits which are the equivalent of the federal minimum wage for activities as an “employee” as broadly defined by the Fair Labor Standards Act. 29 U.S.C. § 203(g). See “How Workplace Laws Apply to Welfare Recipients,” p. 2, U.S. Dept. of Labor, May 22, 1997. However, the state Department of Social Services believes that welfare to work activities are exempt from the minimum wage. ACL 98-32.

Education and Job Training

Based on the assessment, the “welfare to work plan” may also assign a participant to basic adult education and job skills training, including English as a Second Language programs, vocational education, secondary school or GED programs, other education directly related to employment, or job readiness programs. WIC §§ 11322.6(e) - 11322.6(f), 11322.6(k) - (p), 11325.22(b)(3). These job training or education activities will count towards the 20 hour “core activity” requirement for only 12 months. WIC § 11322.8(c). However, the former 18 or 24 month limit on such activities has been repealed. Most education and job training programs will be operated through the community college systems and Private Industry Councils.

Self-Initiated Job Training Programs

In some cases, the recipient may have already begun attending a job training, certificate, or undergraduate degree program. These “self-initiated programs” will be recognized as the “welfare to work plan” if the participant is (a) already enrolled and making satisfactory progress in the program, (b) the program will lead to self-supporting employment, (c) the program can be completed within the 18 or 24 month limit for completing welfare to work activities, and (d) the participant does not already have an undergraduate degree (unless s/he is pursuing a teaching credential). WIC § 11325.23; ACL 99-32.

Mental Health, Substance Abuse, and Domestic Violence Services

Based on the assessment, the “welfare to work plan” may also assign a participant to receive mental health, substance abuse, and domestic violence services if these services are necessary to obtain and retain employment. WIC § 11322.6(q). These activities count towards the 20 hour “core activity” requirement if they are necessary in order for the participant to engage in the principal core activities. WIC 11322.8(d).

- Mental Health Services are subject to the availability of funding, and must include assessment of the level of need, case management, and treatment and rehabilitation services, including counseling. WIC § 11325.7; ACL 98-26.
- Substance Abuse Services begin with a referral of a job search participant to the local alcohol and drug program for evaluation. Based on this assessment, the welfare to work plan may include treatment, including assignment to a reasonably accessible substance abuse program. Unless the participant is in a residential treatment or other program which places restrictions on patients, the participant must also engage in other work activities after six months of treatment. WIC § 11325.8.
- Domestic Violence Services include counseling and treatment programs. WIC § 11495. Pending promulgation of state regulations (due by January 1, 1999), each county may use currently available standards, procedures and protocols for identifying and assisting abuse survivors, and ensuring confidentiality. WIC §§ 11495.1, 11495.15.

Counties can opt to provide mental health and substance abuse treatment in addition to that required by state law. WIC § 11325.7, 11325.8.

Reappraisal of Barriers to Employment

If a participant is unable to find unsubsidized employment after completing the activities set forth in the welfare to work plan, the county will conduct a “reappraisal” to evaluate whether extenuating circumstances prevent a participant from obtaining work. WIC § 11326(a). If such circumstances are found, appropriate additional welfare to work activities will be prescribed. WIC § 11326(b). If no extenuating circumstances are found, the participant can only be assigned to unsubsidized employment, work experience, job skills training, or mental health, substance abuse or

domestic violence services. WIC § 11326(c), 11322.9. Furthermore, counties are required to offer a learning disabilities screening whenever certain events occur. These events are: 1) when a learning disability is suspected by the county, welfare to work contractor, or participant; 2) when participants are in the good cause determination, compliance, or sanction process; or 3) when participants fail to maintain satisfactory progress in welfare to work activities. ACL 02-64.

Child Care and Other Supportive Services Available to Welfare to Work Participants

Subsidized child care must be provided for children who are age 10 or under; or require child care due to physical, mental, or developmental disability; or are under court supervision. WIC § 11323.2(a)(1). Subsidies can be paid to child care providers who are exempt from licensing. Education Code § 8208.1. Eligibility for subsidized child care actually extends beyond CalWORKs recipients. Depending on the availability of funding, any family is eligible so long as its income is up to 75% of the state median income. Education Code §§ 8263, 8263.1, and 8354(b).

Child care expenses are paid directly to the child care provider. Education Code § 8357(e). Payments will not be paid for child care provided by parents, legal guardians, or other members of the Assistance Unit. Education Code § 8357(c). The payment rate will be tied to regional market rates. Education Code § 8357(a).

In addition to child care, a participant must be given the cost of transportation³¹ to work activities, ancillary expenses such as books needed for an educational program or protective clothing needed at a work assignment, and any available personal counseling. WIC § 11323.2; ACL 01-50. Also, counties are prohibited from establishing a limit on the amount the county will pay a participant for supportive services, even though services are necessary for the individual to participate in welfare-to-work activities, and the cost of the services does not exceed the regional market rate. ACL 00-12.

Furthermore, as a result of the passage of Assembly Bill 429 (Chapter 111, Statutes of 2001), CalWORKs services (i.e., welfare-to-work and supportive services; MPP 82-812.68) are available past the one-month temporary absence period, to CalWORKs parents whose child has been removed from the home and is receiving out-of-home care. Unfortunately, such parents are ineligible for cash benefits. Additionally, CalWORKs services will be available if the county determines that services are necessary for family reunification. These services will be given for 6 months. However, the 6-month time limit can be extended for good cause. WIC § 11203. See also ACL 02-36 for further detail concerning possible continuation of CalWORKs services.

Exempting a Recipient from participating in Welfare to Work Activities

Certain recipients will not be enrolled in the county's welfare to work program. WIC § 11320.3. The exemption will last so long as the recipient is:

³¹ See ACL 00-54 for a detailed discussion of how transportation supportive service issues are handled within CalWORKs.

- under 16, or under 19 and attending secondary school full-time.
- disabled for at least 30 days.
- over age 60.
- a caretaker of a child who is either a ward of a court or in danger of foster care, whose caretaking responsibilities impair his or her ability to participate.
- a caretaker with an ill or incapacitated household member, whose caretaking responsibilities impair his or her ability to participate.
- a caretaker of a child under six months old, but only on a one time basis. Counties can opt to lengthen the exemption to 12 months or shorten it to 12 weeks. WIC § 11320.3(b)(6)(A)(i)).

Excusing a Recipient from Participating in Welfare to Work Activities

Even if required to be enrolled in work activities, a participant may be excused for “good cause,” including:

- lack of necessary supportive services such as adequate transportation, ancillary expenses such as books or protective clothing, or personal counseling or therapy. WIC §§ 11320.3(f), 11323.2(a).
- unavailability of child care for a child 10 or under, or for a disabled child. 42 U.S.C. § 607(c)(2).
- the participant is an abuse survivor and participation is detrimental to or would penalize the recipient or her family. WIC § 11495.1(a)(3).
- the participant is already enrolled in a self-initiated degree or certification program leading to employment. WIC § 11325.23.

“Good Cause” for Not complying with the Welfare to Work Plan

Absent good cause, a participant must sign his/her welfare to work plan, participate and make satisfactory progress in assigned activities, including substance abuse programs, and accept suitable employment. Failure to do so can be deemed an “instance of non-compliance” which can lead to sanctions. WIC §§ 11325.8(c)(5) and (c)(6), 11327.4. Section 11320.31 provides that “good cause” can include:

- discrimination on the grounds of age, sex, race, religion, national origin, or physical or mental disability. See also 42 § U.S.C. 607(c), specifying the applicable federal anti-discrimination statutes.
- excessive work hours required by the assignment.
- excessive travel required by the assignment, such as a round trip commute of two hours by car or two miles by foot.
- working conditions on the job which violate health and safety standards.
- lack of Workers' Compensation coverage on the job (Workers' Compensation coverage is provided by the State to recipients whose work activities consist of unpaid work experience and community service. ACL 00-14.)
- situations where work activity would interrupt an approved education or job training program, including a self-initiated program.
- situations where work activity would violate the terms of union membership.
- mental disability. Counties can develop their own standards defining mental disability as "good cause" for failure to comply. WIC § 11327.9.
- any other good cause. Uncodified but found at Stats. 1997, Chap. 270, § 184.

Sanctions for Not Complying with Welfare to Work Plan

Sanctions imposed on participants for an "instance of non-compliance" will consist of the removal of the noncomplying participant from the Assistance Unit. The length of the sanction will depend on whether there has been a previous "instance of noncompliance." For the first instance, the sanction will last until the welfare to work activity requirement has been complied with. The second instance results in a sanction lasting the longer of three months, or until the requirement has been complied with. The sanction for a third or other instance will last for the longer of six months or until the requirement has been performed. WIC § 11327.5. If a sanction is imposed for three months or longer (for example, after the second or third instance of noncompliance), the family's rent and utilities are to be paid in vouchers or vendor payments. WIC § 11453.2; ACL 97-66.

No sanctions can be imposed on a participant who would have been exempt from participation but who voluntarily enrolled. WIC §§ 11327.5(b), 11327.6.

Conciliation Requirements

Nor can sanctions be imposed unless an attempt has been made to conciliate the dispute. Tight deadlines govern conciliation. A notice of non-compliance will be sent to the participant giving her an opportunity to discuss it. The notice must advise that sanctions will be imposed 30

days after the date of the notice unless the participant, within 20 days of the notice, (a) attends a pre-scheduled appointment with her worker or contacts the county within 20 days after notification, and (b) either shows good cause for non-compliance or agrees to a “compliance plan.” The appointment may be rescheduled once. WIC § 11327.4(b). The imposition of sanctions can be appealed to a State Hearing (formerly Fair Hearing) before an administrative law judge.

Grievance Procedures

A participant who is dissatisfied with the welfare to work plan or assignment can invoke the county’s grievance procedures, if they exist. (Despite the statutory requirement, some counties have yet to provide a grievance procedure.) These procedures will probably parallel the conciliation procedures utilized when a sanction is contemplated. Exhaustion of the grievance procedure is not a prerequisite to requesting a Fair Hearing. WIC § 11327.8(a).

A participant must comply with his or her welfare to work plan while the grievance or State Hearing is pending. Otherwise, an instance of non-compliance may be found and sanctions imposed. WIC § 11327.8(b).

Cooperation in Establishing Paternity and in Collecting Child Support

Absent good cause, a custodial parent of an assisted child who is living apart from the child’s other parent is required to assist the county in establishing the right to collect child support from the absent parent, including establishing paternity, and to assign to the county the right to collect that support. WIC § 11477; ACL 97-65. The agency designated to collect the support is generally the county’s child support enforcement agency (formerly the District Attorney Family Support Bureau, or “DA-FSB”).

“Good cause” exists where:

- cooperation would risk harm to the child or abuse to the parent or caretaker,
- the child was conceived as a result of incest or rape,
- the parents are considering adoption,
- the applicant cannot identify or help locate the father, or
- cooperation would be contrary to the child’s best interests.

“Good cause” may be established by the statement of the applicant, including an abuse survivor, made under penalty of perjury. WIC §§ 11477.04(c)(2) and 11477.04(d). Those inquiring about, or claiming good cause or risk of abuse must be given an appropriate referral. WIC § 11477.04(e).

Unlike other sanctions, the penalty for failure to cooperate in the collection of child support without good cause will be the reduction of the family's grant by 25%. WIC § 11477.02; ACL 97-65.

Other Procedural and Reporting Requirements

A family eligible for CalWORKs must still jump through a number of procedural hoops to receive benefits.

Verification of Eligibility

On applying, the family must be given an intake appointment within seven days and told which documents they must bring in to support their application. WIC §§ 11052.5, 11275. If an applicant fails to obtain documents due to a third party's unwillingness or failure to provide documents, the county must assist in obtaining documents or other information needed from third parties. WIC § 11275.10. Applicants will also be required to state the Social Security numbers of all family members (WIC § 11268), and the caretaker relative will have to apply for and be denied Unemployment Insurance Benefits. WIC § 11270. Finally, the family will have a continuing obligation to report, generally on a quarterly basis, on all changes in family composition, in income, and in resources. WIC §§ 11004(b), 11265.1 et seq.

The Quarterly Reporting System

The quarterly reporting system is discussed above at pages 17-19. In brief, recipients are ordinarily required to report income/eligibility information once per quarter via the "QR 7" form (by the 11th day of the 3rd month of the quarter). WIC §§ 11265.1 – 11265.3; ACL 03-18, ACL 05-19. Nevertheless, recipients are required to report any income that exceeds a specific amount, drug felony convictions, fleeing felon status, parole/probation violations, and address changes during the quarter. WIC § 11265.3; MPP 44-316.32; ACL 05-19 (containing a summary of the quarterly reporting regulations), ACL 05-27 (Income Reporting Threshold as of November 2005).

Confidentiality

The county is not permitted to release any information or records concerning a public assistance recipient to anyone without the person's permission, unless for a purpose directly connected with the administration of the public assistance program. ACL 99-20; WIC § 10850. Law enforcement agencies are denied access unless a written request for information or records on a particular individual has been made, and an arrest warrant for the person is outstanding. WIC § 10850.3. Information will not be released to an advocate unless a written release signed by the client has been presented.

Caveat: Notwithstanding the confidentiality statutes, however, states receiving a TANF block grant are required to report anyone the state knows to be "not lawfully present in the United States" (42 U.S.C. § 611a), and, upon request, to furnish a current recipient's address to law

enforcement officers if the recipient is a “fleeing felon” or “has information that is necessary for the officer to conduct [his/her] official duties.” 42 U.S.C. § 608(a)(9)(B).

STATE HEARINGS ON APPLICATION DENIALS, BENEFITS TERMINATIONS, OR OTHER ACTIONS

When the County plans to deny benefits, impose sanctions or collect an overpayment, or discontinue a family from CalWORKs, it must inform the family in writing. If the county is taking some action such as a cutoff of aid or imposing a sanction, the family must be notified of the action at least ten days prior to its taking effect. WIC § 10952. If the client feels the county’s action is unfair, the client should request a State Hearing by filling out the back of the county’s “notice of action” and submitting the hearing request to the county welfare department. The client may also request a hearing by calling 1-800-952-5253. A hearing can be requested even without a written denial.

The client has 90 days from the date of the Notice of Action or the date s/he “knew or should have known” of the wrongful action/inaction by the county to request a hearing before an administrative law judge. WIC §§ 10951, 10953. If the family is already receiving CalWORKs, it should request the hearing before the effective date on the Notice of Action in order to continue to receive benefits (“aid paid pending”) until a decision is reached by the hearing officer. MPP 22-053.112. If it loses at the hearing, the family will have to pay the Aid Paid Pending it received. The hearing can be postponed for good cause. WIC § 10957.

A person appealing a county action is entitled to a pre-termination hearing (if already receiving benefits), to be represented by someone the appellant chooses, to cross-examine witnesses, and to a decision which explains the bases for its conclusions. *Goldberg v. Kelly*, 397 U.S. 254 (1970). The appellant may also review the county’s documents before the hearing, subpoena witnesses or documents, and obtain an interpreter. WIC §§ 10850.2, 10954, MPP 20-049.6. MPP Title 22 and WIC §§ 10950 through 10967 contain additional regulations governing State Hearings.

If dissatisfied with a hearing decision, the family can request a rehearing within 30 days of receipt of the decision. WIC § 10960. A rehearing will generally not be granted unless an error of law is evident. Whether or not a rehearing has been requested, a dissatisfied family can appeal the hearing decision (or the rehearing decision) to the Superior Court. This lawsuit, called a “petition for writ of administrative mandate,” must be filed within one year of the date of the hearing decision (not the rehearing decision). WIC § 10962; Code of Civil Procedure § 1094.5. If successful, the family is entitled to recover attorneys’ fees.

Continuation of Child Care During State Hearings on Child-Care Related Issues

CalWORKs Stage One child care services may continue following a request for a hearing to appeal a suspension, reduction, or termination of child care. A recipient who is employed or who is participating in welfare-to-work activities must be provided paid child care during the hearing process at the rate and frequency approved prior to issuance of the Notice of Action

(NOA) prompting the request for a hearing (regardless of whether the NOA states a lower rate of child care services). However, if the recipient is not employed, not participating in a previously approved welfare-to-work activity, or the hearing concerns the health and safety of the child, then child care services pending a hearing will not be provided. Furthermore, the county is responsible for documenting a recipient's eligibility or ineligibility for child care services. MPP 42-407.32; ACL 99-47.

ASSISTANCE AIMED AT AVOIDING WELFARE, AND ASSISTANCE AFTER CALWORKS

Diversion Payments

Each county should have a "diversion" program under which an applicant for CalWORKs can be offered assistance to get his or her family over a temporary financial hurdle without having to actually receive CalWORKs. WIC § 11266.5; ACL 97-68. This assistance (up to \$3500 in San Francisco) will not count towards the 60 month time limit for receiving benefits so long as it is received only once in a 12 month period, is paid out within 30 days, and covers needs that do not extend beyond 90 days. ACL 97-68. If diversion is unsuccessful and the family begins receiving CalWORKs, diversion payments will also either be counted towards the time limit or treated as an overpayment.

Child Care and Health Care after CalWORKs

75% of State Median Income (as of 6/03)

Family Size	Monthly Gross Income
1 or 2	\$2336
3	\$2503
4	\$2781
5	\$3226
6	\$3671
7	\$3754
8	\$3838

Subsidized child care will remain available to recipients who leave CalWORKs who are in a subsidized child care program for at least two years (in "Stage Two" child care). ACL 97-73. So long as funding is available, the family will continue to be eligible so long as its adjusted income is up to 75% of the state median. Education Code § 8263.1. The State Department of Education will be drafting regulations governing eligibility for subsidized child care.

The family will also remain eligible for MediCal for twelve months³². To be eligible for the first six months of this assistance, the family has to show that it has a child in the home and received CalWORKs (or AFDC) benefits in three of the past six months. To be eligible in the second six months, the family must have a child in the home, had earnings at or below 185% of the poverty line

³² Counties are required by law (Assembly Bill 2780, Chapter 310, Statutes 1998) to inform CalWORKs recipients of the transitional Medi-Cal program upon termination of their cash aid. ACL 09-18.

during the first six months it received post-AFDC/CalWORKs MediCal, and have complied with all reporting requirements during that time. WIC § 14005.8. California is seeking a federal waiver to extend post-CalWORKs MediCal eligibility to a total of 24 months.

Counties can also opt to make “welfare-to-work” activities and services available to former recipients after their 60 months of benefit eligibility have expired, as well as opt to provide job retention services to former recipients for up to one year after the recipient have been employed. WIC §§ 11320.15, 11500; ACL 02-92.

APPENDIX I: APPLYING FOR CALWORKS

The initial application is one page long and is very simple. A screening worker reviews the application to determine if the family meets base-line eligibility criteria. If the worker claims the family is not eligible, s/he must give the client a written Notice of Action stating the reasons why the client was denied and the date of denial. The client should never sign papers stating they are withdrawing their application as this may preclude a later challenge to the denial.

After the one-page application is reviewed, the screening worker will give the client additional forms to fill out and will schedule another "intake appointment." This next appointment must be scheduled within one week. If a two-parent family is applying, both parents must come to this next appointment and must bring all the children who are not in school. The screening worker will also have told the client what documents to bring to the next appointment, the official intake. These may include:

- Identification
- Birth certificates for all family members
- Social security numbers for all family members
- School records for school-age children
- Rent and utility receipts
- Bank books
- Unemployment verification (from the unemployment office)
- Wage stubs
- Car registration
- Marriage certificate
- Death certificates
- Pregnancy verification
- Citizenship or residency papers
- Insurance policies

- Financial aid records
- Shared rent/expense statements for non-related household members to fill out.

An application cannot be denied because the client was unable to get all the requested documentation. The application can only be denied if the client does not supply a pregnancy verification (if this is the first child) or if the client's citizenship is in question and proof of citizenship has not been provided. As long as the client makes a good faith effort to get the other documents, the county must grant the application! The county must assist clients with obtaining documents and to pay costs associated with obtaining documents.

Record Keeping

Advocates should help clients get receipts for all documents s/he turns in, should keep copies of all forms and documents relating to the CalWORKs case, and should keep a notebook/log of all conversations and/or attempted contacts with county personnel.

Depending on the information the client provides on these initial forms, s/he may have to fill out additional papers. The number of possible forms fills a 8 foot by 8 foot room at the welfare department. Any form the client fills out must be signed under "penalty of perjury."

Confidentiality

The client has a right to refuse a credit check on the client or his/her family members without being denied CalWORKs. The county must also get the client's written permission, in the form of a signed consent form, before contacting any third parties.

APPENDIX II: CHILD CARE ELIGIBILITY FOR CalWORKS RECIPIENTS AND NON-RECIPIENTS

In the latter days of the AFDC program, two different subsidized child care systems existed, one generally supervised by the state Department of Education and consisting of a patchwork of programs authorized by the Child Care and Development Services Act (Education Code § 8200, et seq.), and the second -- for AFDC recipients and former recipients -- by the state Department of Social Services by way of the old child care income disregard, GAIN and Non-GAIN child care, California Alternative Assistance Program, and Transitional Child Care programs. Under the CalWORKs statute, uniform eligibility criteria have been developed governing all subsidized child care programs (Education Code § 8263) which will operate under protocols drafted by the Department of Education. This consolidation is reflected in the requirement that child care resource and referral programs be located at the welfare department, if possible. Education Code § 8352.

Financial Eligibility

Eligibility for subsidized child care is not limited to CalWORKs recipients, and includes families with up to 75% of the state median income, currently \$30,036 per year for a family of three. Availability of such subsidies, however, will be subject to funding. Education Code §§ 8263(a)(1)(B) & (b)(2), 8263.1. (See also Education Code § 8354(b), referring to post-CalWORKs continuity of child care and subsidies; and ACL 97-3, the Department of Social Service's implementation instructions for child care under CalWORKs.)

Families whose children were in subsidized child care on January 1, 1998, and whose income is between 75% and 100% of the state median cannot be displaced from programs so long as they meet the program criteria in effect on that date. Education Code § 8263.1(b).

Child care subsidies may be used to pay for child care which is exempt from licensure. Education Code § 8208.1. For families transitioning off of CalWORKs, the law's intention is to ensure continuity of child care and of child care subsidies. Education Code § 8354(b).

Age of Children

Subsidized child care is theoretically available for children up to age 14, or age 21 if "severely handicapped." Education Code §§ 8201(a), 8208(h) and (x). There is no age limit if the child is at risk of abuse, neglect or exploitation. Education Code § 8208(j) and (l). However, most child care programs set their own age limits.

Eligibility Criteria and Priority

A family seeking child care subsidies must meet one criterion in each of two categories, and have a high priority:

Category 1 (Education Code 8263(a)(1)):

The family must be either a current CalWORKS recipient, an income eligible family, a homeless family, or a family with an abused, neglected or exploited child.

Category 2 (Education Code 8263(a)(2)):

In addition, the family must need child care because:

- the child is identified by a legal, medical or social service agency or emergency shelter as: a recipient of Child Protective Services; or neglected, abused or exploited or in danger of neglect, abuse or exploitation; or having a medical or psychiatric special need requiring child care,

OR

- the parents are engaged in vocational training leading to employment; or employed or seeking work; or seeking permanent housing; or so incapacitated as to require child care.

Priority for Child Care Assistance (Education Code 8263(b)):

In granting child care subsidies, priority will be given to applicants in the following order:

- neglected, abused or exploited children in Child Protective Services; or children at risk of neglect, abuse or exploitation.
- income eligible families, with families with the lowest gross income in relation to its family size assisted first, and families of equal incomes assisted according to their length of time on the applicable waiting list.

The CalWORKs statute also permits Local Child Care Development and Planning Councils (whose members are appointed by the county board of supervisors and the superintendent of schools) to draft additional local priorities the use of child care funds for consideration, and possible adoption, by the board of supervisors or superintendent of schools. Education Code §§ 8499.3(a), 8499.5(b).

The Three Stages of Subsidized Child Care for CalWORKs Recipients and Former Recipients:

CalWORKs recipient families pass through the child care system in three stages, with welfare department involvement diminishing as the family becomes more stable and ultimately leaves the CalWORKs program. Thus, only the first stage of child care is directly supervised by the welfare department. Education Code §§ 8350 and 8351. Most CalWORKs recipients and recent former recipients will be in the first two stages.

The child care system for CalWORKs families is supposed to operate as follows:

Referral to a Child Care Provider

The welfare department will refer families needing child care to the local child care resource and referral program. This program must then give the family at least four referrals, at least one of which must be independent of the resource and referral program. The program must also advise the family of their right to choose a license-exempt provider, and may refer the family to such a provider. Education Code §§ 8216, 8225, 8352. While the availability of unlicensed care broadens the availability of child care, the family should not be pushed into accepting such care just because it may be cheaper for the county.

Stage 1:

Applicable to current or former CalWORKs recipients, this stage extends from when a recipient begins “welfare-to-work activities” and continues until the child care need is “stable” (up to six months, but may be extended if the participant’s situation is still unstable). Education Code § 8351(a). The criteria for “stability” are apparently up to the county, and should be given close scrutiny by advocates.

Stage 2:

This stage begins when the participant’s welfare-to-work activity is stable, or when the participant is transitioning off of aid and child care is available. This stage can last up to two years after the recipient is no longer eligible for CalWORKs. Education Code § 8353. This can be an important distinction if funding for stage 3 child care is scarce. For example, if an eligible CalWORKs recipient chooses to leave the program, she arguably should be able to receive stage 2 child care until she is no longer eligible for CalWORKs plus the two years after she became ineligible for CalWORKs.

Stage 3:

This stage begins when “funded child care space is available” for CalWORKs recipients, for diversion payment recipients (to avoid CalWORKs), or for regularly employed CalWORKs participants with an income up to 75% of the state median. Education Code § 8354.

Supervision of stages:

The county welfare department supervises stages 1 and as well as a CalWORKs recipient’s transition between stages 1 and 2. Education Code § 8351(a); Welfare and Institutions §§ 11323.6, 11323.8. For child care providers supervised or paid by the county, disclosure of certain information must be made to CalWORKs participants, including hours of availability and rates charged, character references, statements of qualifications and experience, criminal record, etc. Welfare and

Institutions § 11324. The state Department of Education is to supervise programs administering stages 2 and 3. Education Code § 8354(a).

Rights of Child Care Recipients:

A CalWORKs recipient or former recipient has the right to:

- No break in child care services as the family transitions between stages or off of CalWORKs (Education Code § 8350(b))
- Choice of provider (Education Code § 8357(a)), including a provider exempt from licensing (Education Code § 8208.1)

In addition, by January 31, 1998, the state Department of Education will be required to implement quality control standards and complaint procedures governing unlicensed child care providers. Education Code § 8358.

Child Care Payments

CalWORKs Recipients: Reimbursement and Direct Provider Payment

Until June 30, 1998 (six months after the effective date of the statute), the county will reimburse the CalWORKs recipient for child care expenses up to the allowable rate (see below). The county will thereafter directly pay the child care provider. Education Code § 8537(e).

Non-CalWORKs Recipients: Direct Provider Payment

Child care subsidies operate on a sliding scale which diminish as a family's income approaches 75% of the state median. If the rates charged by the family's child care provider are within state guidelines, no family co-payment will be required until the family's income exceeds 50% of state median. As of December 1997, a co-payment of \$1 (part-time care) or \$2 (full-time care) per child is required from families of two earning \$1557 per month, families of three earning \$1669, families of four earning \$1884, and families of five earning \$2151. As the family income reaches 75% of the state median (\$2336 per month for a family of two, \$2503 for three, \$2781 for four, \$3226 for five) these co-payments go up to \$4.55 and \$9.10 per day per child for part-time and full-time care, respectively. The fee schedule from which the stated rates were taken (see Attachment 1) was last set in October 1997, and a new proposed schedule will probably go into effect around June 1998.

Provider Payment Rates:

The child care subsidy payment rate is governed by regional market rates and capped at 1.5 standard deviations of the mean rate for all providers in the community. Education Code § 8357(a). Provider reimbursement rate ceilings are set by the Superintendent of Public Instruction. Education Code § 8265.

Payment or reimbursement will not be made for child care provided by parents, legal guardians, or assistance unit members. Education Code § 8357(c).

Before and After-School Programs

Funding for before and after-school programs is permitted. Education Code 8481(a)). Such programs must be a collaborative effort with the local school district, and should encourage the hiring of parents and siblings receiving CalWORKs benefits to work in the program. Programs which do so will have preference for state funding. Education Code §§ 8481(e) and (g).

Rules and Regulations Governing Child Care

Rules and regulations on eligibility, enrollment and priorities for subsidized child care are to be promulgated by the state Superintendent of Education. Education Code § 8263. Unfortunately, the statute does not set a date by which these regulations must be in place.

APPENDIX III: EXCLUDED INCOME AND PROPERTY

Note: Some items listed below are addressed in both the excluded income and excluded asset regulations. Even the government recognizes the ambiguous line dividing the two. See MPP 42-200 for an in-depth discussion of excluded assets (resources).

I. Property Which is Not Counted in CalWORKs

Type of Property	Legal Authority	Comments
\$2000 (\$3000 if over 60)	7 U.S.C. 2014(g)	
\$5000 in restricted account	WIC § 11155.2(a)	Funds earmarked for buying home, starting business, going to school
Licensed Vehicle (to \$4560; exempt if equity value not over \$1500)	7 CFR § 273.8(e)(3) & 7 U.S.C. § 2014(g)(2)(B)(iv)	Can exceed \$4650 if used (1) to produce income, (2) a home, (3) to transport disabled household member, (4) to carry water or heating fuel as primary source
Household Goods and Furnishings	7 CFR § 273.8(e)(2)	
Income Producing Real Property	7 CFR § 273.8(e)(4)	However, the <u>income</u> of this excluded asset is counted
Property Essential to Employment	7 CFR § 273.8(e)(5)	E.g., tools
Government Disaster Payments	7 CFR § 273.8(e)(7)	E.g., FEMA benefits
Property Unavailable to Support the Family	7 CFR § 273.8(e)(8)	E.g., low equitable value, or unavailable trust property
Property of an SSI Recipient	7 U.S.C. § 2014(j)	Available only to support SSI recipient
Federal Educational Financial Aid	MPP 63-507	E.g., Pell Grants, Perkins Loans
Jointly Held Property of Abuse Survivors in Shelters	MPP 63-501.3(n)	Unavailable because the other joint owner is the abuser who must consent to make it available
Bona Fide Loans (in Writing)	ACL 97-05	
Miscellaneous Federal Benefits	See MPP 63-507 and 7 CFR § 273.8(e)	E.g., Relocation Benefits, certain JTPA stipends, LIHEAP Energy Assistance, Earned Income Tax Credits, certain Native American Tribal payments

II. Income Which is Not Counted by CalWORKs

Type of Income	Legal Authority	Comments
Partial In-Kind Income	MPP 44-101.8	Value of Free Housing, Food, Clothing and Utilities is <u>not</u> counted if the recipient pays for any portion of these items
Food Stamps	WIC §§ 11450(a)(1) & 11453.1	Value of Food Stamps is not counted
In-Kind Income from a Non-Profit	MPP 44-111.454	Value of Free Shelter, Food, Clothing, etc. is <u>not</u> counted even if the recipient pays for <u>no</u> portion of these items (If 100% of the value of these items is free, countable income will be charged to the recipient in the amount set forth in the “in-kind income” tables found at MPP 44-115.311)
Income of an SSI Recipient	MPP 44-133.21	Available only to support the SSI recipient <u>unless</u> paid to the household
Proceeds of Bona Fide Loan (in writing)	MPP 44-111.437 (per WIC § 11157)	
Earned Income Tax Credits	MPP 44-111.3(l)	
Federal Student Financial Aid	MPP 44-111.43	Pell Grants, Guaranteed Student Loans, etc.
College Work-Study Payments	MPP 44-111.24	
Child Support Collected for a Child Excluded Under “Family Cap”	WIC 11450.04(a)	“Family Cap” bars an increase in the grant amount for a new child born to a recipient
Live-in Boy Friend’s Contributions to His Own Support	MPP 43-109.1	The boy friend is required to contribute at least the value of “in-kind income” set forth in the tables at MPP 44-115.311
First \$50 of Child Support Collected	WIC § 11475.3	
CalWORKs Underpayments	WIC 11004(k)	These corrective payments are exempt income
Reduced Income Supplemental Payments	MPP 44-402.5	
Children’s Earnings	MPP 44-111.221(a)	Child must be at least a ½ time student or receiving earnings from a JTPA program
Relocation Benefits	WIC § 11008.6	
Miscellaneous Government Benefits	See MPP 63-507; 7 CFR § 273.8(e); MPP 44-111	E.g., certain JTPA stipends, LIHEAP Energy Assistance, certain Native American Tribal payments
Infrequent Income up to \$30 per four month quarter	WIC § 11157(b) & MPP 63-502.2(d)	

APPENDIX IV: COMPARISON OF COUNTY CALWORKS PLANS

Source: Preliminary Analysis of County CalWORKs Plans (California Budget Project, February 1998)

County	Hours Required	Infant Exemption from Welfare to Work Activities	Welfare to Work Activities Added or Deleted from Statutory List	Criteria for Diversion from CalWORKs
Alameda	32	6-12 mos based on: parent or child's needs, child care availability, best interests of child, desire of parent to remain at home	None	Likelihood of avoiding further assistance
Alpine	32	3-12 mos based on: child care availability, labor market conditions, best interests of child	Deleted: job skills training and education related to employment, supported work, transitional employment	N/A
Amador	32	12 mos	None	Employment history, likelihood of employment, housing stability, adequate child care, transportation needs, other work-related expenses
Butte	32	3-12 mos based on: child care availability and special needs of family	Deleted: Subsidized private and public sector employment	N/A
Calaveras	32	12 mos infant care unavailable	Deleted: Subsidized private and public sector employment, grant based on the job training, supported work	N/A
Colusa	32	6 mos. For next 2 mos (until child reaches 8 mos of age) 3 to 10 hrs of parenting instruction required as part of parents welfare to work participation	Added: Parenting instruction classes	N/A
Contra Costa	32	6-12 mos based on child care availability	Deleted: Subsidized private and public sector employment, grant based on the job training, transitional employment	N/A
Del Norte	32	Up to 12 mos based on child care and job availability	Added: Parenting workshops and life skills instructions. Deleted: Grant based on the job training	N/A

County	Hours Required	Infant Exemption from Welfare to Work Activities	Welfare to Work Activities Added or Deleted from Statutory List	Criteria for Diversion from CalWORKs
El Dorado	32	6-12 mos based on: availability of infant care, transportation and work activities; domestic violence; mental health or substance abuse issues and other factors	None	Employment history, likelihood of employment, need for assistance with housing or work-related expenses, housing stability, and child care arrangements
Fresno	32	3-12 mos based on child care availability	Deleted: Subsidized public sector employment	N/A
Glenn	32	6 mos (up to 9 if willing to attend parenting or self-sufficiency classes)	Considering: Revolving loan program and grant diversion as subsidized employment	N/A
Humboldt	32	6-12 mos based on availability of child care, jobs and welfare to work activities; whether parent is breast feeding; special needs of child	Added: Accelerated learning; apprenticeship; distance learning; literacy, open-entry/exit classes, and short term programs	N/A
Imperial	32	3-12 mos	Deleted: Grant based on the job training, transitional employment, subsidized public and private sector employment	Employment and welfare history, employment prospects, purpose of assistance, housing and child care stability, prior use of diversion. Maximum assistance: 3 mos of aid
Inyo	32			
Kern	32	3-12 mos based on availability of child care and transportation, health of the child	Added: Mentoring services, housing authority self-sufficiency program, life skill services	N/A

Kings	32	6-12 mos based on child care availability and special needs of child	None	N/A
County	Hours Required (1/98)	Infant Exemption from Welfare to Work Activities	Welfare to Work Activities Added or Deleted from Statutory List	Criteria for Diversion from CalWORKs
Lake	32	12 mos; participants encouraged to participate in wtw activities if infant care is available	Will explore grant based on the job training, supported work, transitional employment and subsidized public and private sector employment in the future	N/A
Lassen	32	Up to 12 mos based on: child care and employment availability, parental efforts to obtain employment, special needs of the child	Deleted: Grant based on the job training, supported work, transitional employment	N/A
Los Angeles	32	12 mos; participant encouraged to participate in wtw activities	Deleted: Subsidized private and public sector employment, grant based on the job training, community services, supported work, and transitional employment	Cash assistance maximum: 6 mos of aid for work-related and other expenses
Madera	32	3-12 mos; parent may select to attend child and family development classes as a work activity	Added: self-initiated programs and child and family development classes	Likelihood of employment within 2 mos and have needs that cannot be met with existing resources. Maximum assistance 3 mos of aid
Marin	32	12 mos, gradually lowered to 6 mos on case-by-case as infant care slots become available	Deleted: Grant based on the job training Added: Mentorship and internship programs	N/A
Mariposa	32	3-12 mos based on availability of infant care, transportation and jobs, and recipient job readiness	None	N/A
Mendocino		3-12 mos based on availability	Deleted: Grant based on the	Maximum of \$2000 thru

	32	of child care, commute time, special needs of child	job training	vouchers and vendor payments
Monterey	32	3-12 mos based on availability of infant care, labor market conditions, special needs of child or family, other factors	None	N/A
Napa	32	4-12 mos based on child care availability, local labor market conditions, special needs of child	Added: Mentoring services, housing authority self-sufficiency program, life skills services	N/A
County	Hours Required	Infant Exemption from Welfare to Work Activities	Welfare to Work Activities Added or Deleted from Statutory List	Criteria for Diversion from CalWORKs
Nevada	32	6-12 mos based on availability of infant care, transportation, employment and training; physical disabilities of child; other factors	None	N/A
Merced	32	6-12 mos based on availability of infant care and willingness to participate in parenting program	Added: Mentoring and life skills services	N/A
Modoc	32	Up to 12 mos based on child care availability	Added: Life skills instruction and parenting skills workshops	N/A
Mono	32	3-12 mos based on infant care availability. Exemptions may require parenting, child development or life skills classes	Deleted: Work study Added: child development and parenting classes, life skills classes	N/A
Orange	32	3-12 mos based on availability of infant care, transportation and jobs; commute time; number of child care providers; child's needs	Deleted: Community service	N/A
Placer	32	12 mos	Deleted: Supported work, transitional employment, grant based on the job training	N/A
Plumas	32	12 mos	Deleted: Grant based on the job training	Maximum assistance 3 mos of aid
Riverside	32	6-12 mos based on medical complication of child or child care unavailability	Deleted: Subsidized public sector employment, grant based on the job training, transitional employment, and community service	N/A
Sacramento	32	6-12 mos based on availability of infant care, transportation and	None	N/A

		wtw activities; domestic violence, mental health and substance abuse issues; other factors		
San Benito	32	6 mos	Deleted: Subsidized private sector employment, grant based on the job training, supported work	N/A
County	Hours Required	Infant Exemption from Welfare to Work Activities	Welfare to Work Activities Added or Deleted from Statutory List	Criteria for Diversion from CalWORKs
San Bernadino	32	6-12 mos based on infant care availability, special needs of child, parent's "good cause" for not accepting available child care	Deleted: Grant based on the job training, supported work and transitional employment	N/A
San Diego	32	3 mos unless child care not available	None	N/A
San Francisco	32	Up to 12 mos; parent encouraged to work	Added: Study time associated with approved education activities	Maximum \$3500 aid
San Joaquin	32	3-12 mos based on availability of child care, transportation, jobs; other factors	Deleted: Grant based on the job training, supported work, transitional employment	N/A
San Luis Obispo	32	6-12 mos based on availability of child care, transportation, jobs; child's needs; other factors	Deleted: Grant based on the job training	N/A
San Mateo	32	12 mos	Deleted: Subsidized private sector employment	N/A
Santa Barbara	32	Up to 12 mos based on availability of child care, jobs, transportation; commute time; number of child care provider choices; child's needs	Deleted: Grant based on the job training	N/A
Santa Clara	32	6-12 mos based on availability of child care and special needs of family	Deleted: Subsidized private and public sector employment, grant based on the job training, supported work, transitional employment	N/A
Siskiyou	32	12 mos	Deleted: Grant based on the job training, education directly related to employment, supported work,	N/A

			transitional employment	
Solano	32	6 mos based on medical condition of parent/child, availability of child care and transportation, parent training/education level, labor market conditions	Deleted: Subsidized public and private sector employment and grant based on the job training	N/A
County	Hours Required	Infant Exemption from Welfare to Work Activities	Welfare to Work Activities Added or Deleted from Statutory List	Criteria for Diversion from CalWORKs
Sonoma	32	6-12 mos based on infant care availability, special needs of family	None	N/A
Santa Cruz	32	12 mos	Deleted: Subsidized private and public sector employment, grant based on the job training, supported work, transitional employment, community service	N/A
Shasta	32	3 mos; extension based on non availability of accessible child care	None	N/A
Sierra	32	6 mos; case by case review for availability of child care and special needs of child	Deleted: Work study, education directly related to employment, grant based on the job training, supported work, transitional employment	N/A
Stanislaus	32	6 mos; parent of 6-12 mo child may select to attend child and family development classes as a work activity	Deleted: Subsidized private and public sector employment, grant based on the job training, transitional employment Added: Child and family development classes	N/A
Sutter	32	3-12 mos based on availability of child care, mental health issues, health of child, other issues prohibiting wtw	Deleted: Work experience, education directly related to employment	N/A
Tehama	32	6-12 mos based on availability of child care, labor market conditions, special needs of child, parent's good cause for not accepting available child care	Deleted: Grant based on the job training, supported work, transitional employment	N/A
Trinity	32	6 mos unless infant care not available	Deleted: Grant based on the job training, transitional employment	N/A

Tulare	32	6-12 mos based on availability of infant care and transportation; parent's job history, other factors	None	N/A
County	Hours Required	Infant Exemption from Welfare to Work Activities	Welfare to Work Activities Added or Deleted from Statutory List	Criteria for Diversion from CalWORKs
Tuolumne	32	Good cause determination made case by case for families 13 wks to 10 yrs based on child care availability. Active child care search required	Deleted: Subsidized private and public sector employment, grant based on the job training, supported work Added: Alternative work experience for two parent families	N/A
Ventura	32	6-12 mos based on availability of infant care	Deleted: Grant based on the job training, supported work, transitional employment, subsidized public sector employment	N/A
Yolo	32	6 mos unless child care not available, parent/child has special needs or physician's orders, other relevant factors	Deleted: Supported work, transitional employment	N/A
Yuba	32	3-12 mos based on child care availability, health of child, mental health issues, other factors	Deleted: Grant based on the job training, supported work, transitional employment Added: Consumer education and life skills workshops	N/A

APPENDIX V: CalWORKs APPLICANT ELIGIBILITY QUESTIONNAIRE

1. Do you have your child(ren) living with you? (Check about joint custody.)
2.
 - a) Is either parent absent, deceased or disabled (is there parental deprivation)?
 - b) Are both parents in the household?
 - c) Does one of the parents have a mental or physical disability?
 - d) Is one of the parents unemployed?
 - e) Does one of the parents work over 100 hours per month? (If yes, the family may be ineligible.)
3. Does your family have any income?
4. Does the family have personal/real property valued at over \$2,000?
5. Does the family own a car with a fair market value over \$4,650?
6. Are you a U.S. citizen or permanent resident? If an immigrant, when did you enter the U.S.? Do you have a sponsor?
7. Do you have birth certificates and Social Security cards for all household members?
8. Do you know the name, address and/or Social Security number of the absent parent?
9. Does your family have less than \$100, have no money for food, and are you behind in rent, etc.? (If yes, "Immediate Need" may be available.)
10. Is your family homeless? (If so, look into temporary and permanent homeless assistance payments.)