



CDSS

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DEPARTMENT OF SOCIAL SERVICES

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GOVERNOR

April 20, 2010

ALL COUNTY INFORMATION NOTICE NO. I-31-10

TO: ALL COUNTY WELFARE DIRECTORS
ALL CALWORKS PROGRAM SPECIALISTS
ALL COUNTY WELFARE TO WORK COORDINATORS
ALL COUNTY CONSORTIA MANAGERS
ALL COUNTY FISCAL OFFICERS
ALL COUNTY AUDITOR CONTROLLERS

SUBJECT: THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)
EMERGENCY CONTINGENCY FUND CLARIFICATIONS FOR
SUBSIDIZED EMPLOYMENT

REFERENCES: County Fiscal Information Notice (CFIN) CN-09-1044, County Fiscal
Letter (CFL) 09/10-32, All County Information Notice (ACIN) I-20-09,
All County Letter (ACL) 09-42, and ACL 10-22

The purpose of this notice is to provide the County Welfare Departments (CWDs) with clarifications from the California Department of Social Services (CDSS) and the United States Department of Health and Human Services (DHHS) regarding the use of the TANF Emergency Contingency Fund (ECF) for subsidized employment programs serving low-income families.

Federal guidance from DHHS regarding TANF ECF is available on a Questions and Answers webpage published at: <http://www.acf.hhs.gov/programs/ofa/recovery/tanf-faq.htm>

Significant updates impacting how states implement TANF ECF subsidized employment programs were made in late November and early December 2009. Since that time, CDSS has been working with counties to determine the impact of these narrowed provisions and seeking additional guidance from DHHS. The attached questions and answers are a result of the effort.

Additionally, CFIN CN-09-1044 (released March 4, 2010) provides further clarification on the specific families eligible for ECF funded subsidized employment, program code

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

descriptions, third party contributions expenditure information, and a methodology for calculating supervision and training costs. CDSS will continue to provide updates on TANF ECF subsidized employment programs through participation in CWDA CalWORKs Policy Committee meetings and in future letters as well.

All CDSS Letters and Notices are available on the Department's website at:

<http://www.dss.cahwnet.gov/lettersnotices/default.htm>

Please direct fiscal policy, ECF awards, or any claiming questions to the CDSS Fiscal Systems Bureau electronic mailbox at fiscal.systems@dss.ca.gov. If you have any other questions regarding this notice, please contact the CDSS Employment Bureau at (916) 654-2137.

Sincerely,

Original Document Signed By:

KÄREN DICKERSON, Chief
Employment and Eligibility Branch

Attachment

ACIN I-31-10 Attachment
Questions and Answers on TANF ECF Subsidized Employment Programs

Determining Needy Family Eligibility

Question 1: How often must a county review a needy family to determine continued eligibility as a needy family?

Answer: For the purposes of TANF ECF, a needy family's eligibility will be redetermined no less often than annually.

Question 2: Does the subsidized wage count for determining on-going financial eligibility for a non-CalWORKs family?

Answer: No. Subsidized wages are to be excluded as income for the family when determining if the needy family has income less than 200 percent of the federal poverty level.

Eligible Populations

Question 3: Can otherwise eligible drug and fleeing felons be placed into subsidized employment slots funded with TANF ECF?

Answer: The cash aid ineligibility provisions of the CalWORKs program relating to drug and fleeing felons do not apply to needy families served by non-assistance programs funded under TANF ECF. Therefore, drug and fleeing felons can be provided TANF ECF funded subsidized employment if their family meets the definition of a needy family. Please reference CFL 09/10-32 and CFIN CN-09-1044 for appropriate claiming instructions.

Question 4: If a county is interested in using TANF ECF to fund a summer youth program, must the program participants be members of a CalWORKs family or needy family, and can youth who are not minor children be served?

Answer: To be placed in TANF ECF funded subsidized employment, youths must reside with a family that meets the definition of a CalWORKs or needy family as outlined in ACL 09-42.

State law for TANF ECF limits eligibility to the "needy family" population to families with a minor child living with a parent or adult relative caregiver; and families in which the minor child is temporarily absent for up to 12 months, due to child abuse and neglect, and the parent or parents are engaged in family reunification services. As long as a youth who is 24 years of age or younger is residing with a CalWORKs or "needy family" and is related to the minor child, he or she may be placed in TANF ECF subsidized employment.

Youth, in a foster care placement with a CalWORKs or needy family are also eligible for TANF ECF subsidized employment. In this situation, the foster care youth does not have to be related to a member of the eligible family. Emancipated youth who are no longer in a foster care placement and who are

under the age of 24 are only eligible if they are residing with a CalWORKs or “needy family” in which the emancipated youth is related to the minor child.

Non-Wage Subsidized Employment Program Costs

Question 5: Other than supervision and training, can counties claim any other unreimbursed employer costs?

Answer: CDSS has confirmed with ACF that, except for in-kind supervision and training costs, **no** unreimbursed employer paid costs (such as employer taxes, workers’ compensation insurance, etc.) can count toward the total program cost for subsidized employment.

Please see CFIN CN-09-1044 and CFL 09/10-32 for further information on countable expenditures and how to claim costs.

Question 6: What employer costs can counties pay for using TANF ECF?

Answer: TANF ECF can be used to pay a third party/employer for any expense that is an allowable use of federal funds under TANF. For example, under existing TANF rules, TANF ECF can be used to pay an employer for payroll taxes, but not health benefits.

Question 7: Must counties have a written agreement with the employer to count that employer’s third party in-kind supervision and training costs?

Answer: Yes. Long-standing federal rules require a written agreement with the third party. The agreement must ensure that the third party is aware of and agrees to allow the state to count the in-kind contribution toward the state’s TANF maintenance of effort (MOE) requirement. The agreement must specify that the third party’s in-kind contribution is not funded through federal funds or through funds that are used or will be used to satisfy a cost-sharing or matching requirement of another federal program (non-TANF).

A program announcement issued by ACF in 2004 provides further details for counting third party expenditures as MOE and is available at the following internet address: <http://www.acf.hhs.gov/programs/ofa/policy/pa-ofa/2004/pa200401.htm>

Question 8: Will the state’s Workers’ Compensation Insurance for CalWORKs cover TANF ECF subsidized employment participants?

Answer: For CalWORKs recipients who are participating in subsidized employment programs, workers’ compensation coverage can be provided under CDSS’s contract with the State Compensation Insurance Fund (SCIF). This coverage does **not** extend to needy families.

Counties should note that the SCIF contract for workers' compensation insurance has a limited amount of funding and should only be used if paying for this benefit is identified as a barrier for an employer in offering TANF ECF subsidized employment.

Question 9: How would an employer access the state's Workers' Compensation Insurance contract?

Answer: When an employee is injured on the job, employers are legally required to file Employer's Report of Occupational Injury or Illness (Form 3067) within five days after knowledge of injury; however, SCIF has recommended that employers make this report within 24 hours.

Employers using the CDSS/SCIF Agreement to cover Workers' Compensation costs for CalWORKs recipients must meet special reporting requirements when electing to provide Workers' Compensation Coverage under the state contract. Employers will need to call **916-924-6323** and speak with a technician who will provide assistance in taking the injury report over the phone. If an employer cannot contact SCIF by phone, they are asked to **FAX** the Form 3067 to **916-924-5012** within 24 hours of injury to prevent any delay in processing possible benefits.

As a secondary option, if the above is not feasible, employers may also call the Claims Reporting Center at **888-222-3211** within 24 hours of injury. Employers are reminded to acknowledge to the report taker at the center that they are reporting a "CalWORKs Claim" so that the report taker will route the report to the proper staff at SCIF to prevent delay in processing possible benefits.

Question 10: The state's Workers' Compensation Insurance contract does **not** cover needy families—how can a county meet existing contract requirements to pay for these costs?

Answer: Counties may use TANF ECF to pay for Workers' Compensation Insurance for any eligible population, including needy families. Counties may also use fraud incentive dollars or county funds to pay Workers' Compensation Insurance costs for needy families. Counties cannot use the CalWORKs Single Allocation to pay for such costs for serving needy families.

As a reminder, per federal clarification provided to CDSS and as stated in CFIN CN-09-1044, counties cannot count employer paid Workers' Compensation Insurance costs toward the program cost as a third party in-kind contribution.

Question 11: Can a county use TANF ECF to reimburse an employer for the health benefit costs of a subsidized employee?

Answer: No, TANF ECF cannot be used to reimburse the employer for the cost of health care benefits. Long-standing federal guidance clarifies that payments for health insurance coverage would constitute expenditures on medical services and federal law prohibits the use of federal TANF funds on medical expenses.

Long-standing federal rules also prohibit the funding of health benefits with any state/county funds that are comingled with federal dollars.

TANF ECF and fraud incentive funds are federal TANF dollars and are prohibited for this purpose.

Question 12: Are there other funding sources available to pay for health benefits?

Answer: Counties may subsidize health benefit costs as MOE in the 20 percent spending requirement using county funds that are not comingled with federal dollars.

If a county paid for health benefits with county funds and the 20 percent share requirement was already met (for example, the third party in-kind supervision and training fully covered the 20 percent MOE), counties can claim an ECF reimbursement for 80 percent of the MOE health benefit costs after the fact (no advanced dollars).

CDSS is working with CWDs to identify other funding options, if any, and will provide additional guidance, if appropriate, under a separate cover.

Displacement Rules

Question 13: Do displacement rules apply to private sector subsidized employment?

Answer: Displacement rules apply to both private and public sector employment. Displacement Regulations found in the CDSS Manual of Policies and Procedures (MPP) Section 42-720 et seq. provide the state grievance procedures for alleged displacement issues and specifically references a list of scenarios that would be considered displacement under state law.

Question 14: If a position is terminated, how long do the displacement rules apply?

Answer: There is not an explicit timeframe regarding the time that must pass before a terminated job can be filled by a TANF subsidized employment slot and is no longer considered displacement of the original employee.

Question 15: If one county department experiences layoffs, can another department within that same county still participate in subsidized employment without displacing the county employees that were laid off?

Answer: Whether or not specific subsidized employment situation violates displacement rules is a factually specific question and the county should consider all of the circumstances surrounding the subsidized employment position(s) in question and analyze those circumstances based on the criteria specified in MPP 42-720.11 through 42-720.19.

If a county is uncertain if a specific subsidized employment position, or positions, violates displacement rules, the county should discuss the specific circumstances involved with their legal counsel.

Question 16: Does the ARRA requirement that all job sites must post signage of the ARRA whistleblowers protection apply to TANF ECF subsidized employment programs?

Answer: No. Funding granted through ARRA is separated into two categories: Division A and Division B. TANF ECF falls under Division B and must only meet the provisions specified for Division B funds. The requirements listed under Division A, such as the whistleblower protection signage, does not apply to TANF ECF.

Self-Employment

Question 17: Can TANF ECF be used to subsidize a participant in self-employment?

Answer: No. TANF ECF cannot be used to subsidize self-employment. This prohibition includes subsidizing employment at a company that is owned by a CalWORKs or needy family.

TANF ECF Timing

Question 18: Can a county be reimbursed for funds that have been obligated but not spent by September 30, 2010?

Answer: No. At this time, TANF ECF is scheduled to end on September 30, 2010. TANF ECF can only be used to pay for actual expenditures that were incurred through September 30, 2010.