



CDSS

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September 15, 2009

ALL COUNTY LETTER NO. 09-42

REASON FOR THIS TRANSMITTAL

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

TO: ALL COUNTY WELFARE DIRECTORS
 ALL COUNTY WELFARE-TO-WORK COORDINATORS
 ALL CalWORKs PROGRAM SPECIALISTS
 ALL COUNTY CHILD CARE COORDINATORS
 ALL REFUGEE PROGRAM COORDINATORS

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

REFERENCES: County Fiscal Letter 09/10-03, All County Information Notice I-20-09
 and All County Letter 02-92

The purpose of this letter is to provide counties with program instructions for implementing the expansion of California Work Opportunity and Responsibility to Kids (CalWORKs) subsidized employment programs through the TANF Emergency Contingency Fund (ECF). While counties can expand subsidized employment programs in accordance with this letter, access to TANF ECF funds for county programs is contingent upon federal approval of the state's TANF ECF request for funds and obtaining associated state budget authority. The California Department of Social Services (CDSS) expects receiving approval of the state's TANF ECF request and obtaining state budget authority within the next 45 days. In the unlikely event that either of these actions do not occur, counties will be responsible for funding the cost of expanding subsidized employment programs.

With the authority provided through the passage of Assembly Bill 4 of the Fourth Extraordinary Session, Chapter 4, Statutes of 2009 (ABX4 4), this letter also provides instructions for counties to provide such positions to low-income needy families who have not previously been eligible for TANF funded subsidized employment positions in California. Guidance for implementing new expanded basic assistance and non-recurring short-term benefits under TANF ECF will be released under a separate All County Letter.

Background

On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 (ARRA), which is a \$787 billion economic stimulus package. ARRA included new funding through TANF ECF in federal fiscal year (FFY) 2009 and FFY 2010 to assist states with the financial impact that the economic downturn is having on TANF families and local communities.

Through TANF ECF, states may be reimbursed up to 80 percent of increased TANF and TANF maintenance-of-effort (MOE) spending in FFY 2009 and FFY 2010 on any of the following three categories:

1. Increased basic assistance expenditures, as long as there is an increased caseload
2. Increased expenditures for subsidized employment
3. Increased expenditures for non-recurring short-term benefits

Increased spending is based on either FFY 2007 or FFY 2008, whichever has the lower monthly average caseload (for basic assistance only) or lower expenditures (for all three categories). The base year is determined by the United States Department of Health and Human Services' Administration for Children and Families (ACF) and can be different for each of the spending categories. Based on county expenditure data, CDSS is assuming that California's base year for subsidized employment will be FFY 2007.

The increased expenditures in these categories can be entirely in federal TANF funds (including TANF ECF reimbursements), TANF MOE funds, or a combination of both. The federal program announcement issued by ACF on April 3, 2009, provides additional background information on TANF ECF. The program announcement is available online at the following internet address: <http://www.acf.hhs.gov/programs/ofa/policy/pa-ofa/2009/pa200901.htm>

Per the ACF program announcement, all expenditures related to operating a subsidized employment program, including the cost of overseeing the program, developing work sites, and providing training to participants, may be claimed when applying for ECF advancements and reimbursements. Existing federal regulations regarding administrative costs and the associated 15 percent cap on certain administrative activities apply. [45 CFR 263.0(b) and 45 CFR 263.0(b)(1)] Please refer to County Fiscal Letter (CFL) 09/10-03 for additional details on allowable expenditures.

TANF ECF is funded at a maximum of \$5 billion in total for all states and available for both years. The total amount each state is eligible for in FFY 2009 and FFY 2010 combined cannot exceed 50 percent of the state's annual TANF Block Grant. For California, the capped amount for the two years combined is \$1.8 billion.

Implementation

Beginning in March 2009, CDSS established a workgroup with the County Welfare Directors Association (CWDA) and County Welfare Departments (CWDs) to develop an implementation strategy that would maximize California's ability to access TANF ECF. As a result, state statutory authority has been attained in ABX4 4 to provide TANF ECF funded subsidized employment program services to a new population of "needy families," described on page four, in addition to families already eligible for subsidized employment under CalWORKs. Through CWDA, counties were surveyed to identify the extent to which counties could expand subsidized employment programs, and based on those projections, CDSS applied for TANF ECF subsidized employment funds for FFY 2009 on June 30, 2009.

An additional fiscal workgroup was formed with CDSS, CWDA, and CWD staff to develop procedures for meeting base year expenditures, advancing TANF ECF to counties based on projected expenditures, and to develop claiming and reconciliation instructions. Counties can use various funding sources to cover the 20 percent that is not reimbursed through TANF ECF. To review preliminary fiscal policy and claiming guidance pertaining to TANF ECF, please refer to CFL 09/10-03. CFLs can be accessed through the Department's website at the following internet address:

<http://www.dss.cahwnet.gov/lettersnotices/PG960.htm>

While counties can offer subsidized employment programs to the populations below, access to TANF ECF funds for those programs is contingent upon federal approval of the state's TANF ECF request for funds and the receipt of associated state budget authority.

Populations Eligible for TANF ECF Subsidized Employment Positions

The following populations are eligible for subsidized employment programs under TANF ECF for FFY 2009 and FFY 2010:

- CalWORKs recipients who are required to participate in welfare-to-work (WTW).
- CalWORKs recipients who are exempt from participating in WTW but volunteer to participate.
- Former CalWORKs recipients who are eligible for job retention services pursuant to Manual of Policy and Procedures (MPP) 42-717.
- Individuals who have exhausted their 60-month time limit on the receipt of cash aid and are in the CalWORKs Safety Net program.
- Individuals who are eligible for CalWORKs family reunification services pursuant to MPP 82-812.68.

- A dependent teen in a CalWORKs household.

Subsidized employment programs serving the above populations are eligible for 80 percent TANF ECF reimbursement effective October 1, 2008 upon federal approval of the state's request for funds and receipt of state budget authority. Counties can utilize their CalWORKs Single Allocation, county-only funds, documented third party contributions, or fraud incentive funds to cover the 20 percent not reimbursed through TANF ECF.

With the passage of ABX4 4, effective July 28, 2009, families eligible for TANF ECF funded subsidized employment positions also include "needy families" with an income less than 200 percent of the official federal poverty level guidelines applicable to a family of the size involved if the family meets any of the following criteria:

1. A family in which a minor child is living with a parent or adult relative caregiver, (including a non-custodial parent who does not reside with the minor child), regardless of whether the child is receiving CalWORKs cash aid.
2. A woman who is in her third trimester of pregnancy, regardless if the woman has other children.
3. A family in which a minor child is temporarily absent for a period of time not to exceed 12 months due to child abuse and neglect, and the parent or parents of the child are engaged in family reunification services.

The chart in Attachment 1 provides more detailed information on the specific individuals that are eligible for TANF ECF funded subsidized employment positions.

Subsidized employment program expenditures for serving this newly defined population of needy families are eligible for 80 percent TANF ECF reimbursement effective July 28, 2009, upon federal approval of the state's ECF request for funds and receipt of state budget authority. Counties can utilize county funds, documented third party contributions, or fraud incentive funds to cover the 20 percent not reimbursed through TANF ECF. The CalWORKs Single Allocation cannot be used to cover the 20 percent not reimbursed through TANF ECF for needy families.

CWDs must use the federal poverty level guidelines when determining a "needy family." The United States Department of Health and Human Services issues the federal poverty level guidelines in late January or early February of each year in the Federal Register. The 2009 federal poverty level guidelines, Attachment 2, were published in the Federal Register on January 23, 2009 (Volume 74, Number 14) and are available at the following internet address: <http://aspe.hhs.gov/POVERTY/09fedreg.pdf>

This expanded definition only applies to TANF ECF; it does not mean that families below 200 percent of the federal poverty level guidelines are eligible for CalWORKs or

any other TANF or MOE funded program unless they are otherwise eligible for the program.

Under federal regulations, subsidized employment is not considered "assistance". Therefore, non-CalWORKs needy families who participate in ECF funded subsidized employment are not subject to the rules that apply to TANF assistance, such as the federal TANF time limit or the work participation rate requirements.

Subsidized Employment Program Requirements

All WTW regulations that are applicable to subsidized employment apply to TANF ECF funded positions. Under state regulations, subsidized employment means employment in which the participant's employer is partially or wholly reimbursed for wages and/or training costs [MPP 42-701.2(s)(2)]. This includes both public and private sector employment. This definition is consistent with the federal definition of subsidized employment.

Counties must carefully assess a potential subsidized employment position to ensure that placement in the position would not violate the WTW non-displacement provisions pursuant to MPP 720, et al. These provisions apply to any individual assigned to a TANF ECF funded position.

With the passage of ABX4 4, the subsidized employment programs established through AB 98 (Statutes of 2007) have been suspended, including state and county reporting requirements, for the duration of TANF ECF. Unlike AB 98, the subsidized employment programs funded with TANF ECF are not subject to a six-month time limit or any of the other provisions of AB 98. There is no limit on the amount of time an individual can be placed in a TANF ECF subsidized employment position; however, counties should carefully design TANF ECF subsidized employment programs with the following limitations in mind:

- TANF ECF is time-limited, and state and federal authority for this program is scheduled to end on September 30, 2010.
- TANF ECF is capped at \$5 billion nationwide and is awarded on a first-come-first-served-basis; therefore, it is conceivable TANF ECF funding could run out prior to September 30, 2010. However, CDSS and CWDA will be monitoring expenditures closely and will keep counties apprised if it appears TANF ECF funds are at risk of running out.
- It is the intent of the Administration to limit AB 98 appropriations to \$5.9 million after TANF ECF has ended. This means that after TANF ECF runs out, there may not be sufficient funding to maintain all of the subsidized employment positions created by the counties during the life of TANF ECF.

Community College Work Study Programs

ABX4 4 includes a provision to reimburse California community college districts with TANF ECF to the extent that the colleges expend funds in excess of base year costs on CalWORKs work study programs, which are funded with state general fund Proposition 98 dollars. CDSS is working with the California Community College's Chancellors Office to determine implementation of this aspect of TANF ECF subsidized employment programs. A separate All County Letter will be issued to CWDs in the near future that will address community college work study programs' access to TANF ECF reimbursement.

County Plan Amendments

CalWORKs County Plans are required to outline a county's goals and collect information on the activities and services offered by the county to achieve those goals. CalWORKs County Plans do not need to be amended to reflect the "needy family" definition as this expanded population cannot be served through use of a county's CalWORKs Single Allocation. However, if a county's current CalWORKs County Plan does not indicate that subsidized employment is an activity offered in the county, then that county will need to amend its CalWORKs County Plan to include subsidized employment. If the CalWORKs County Plan already states that the county offers this activity, a change in the funding source for the activity does not require a plan amendment. Depending on how narrowly the activity is defined in a CalWORKs County Plan, a county may need to amend its county plan to expand the scope of the activity.

If a county does need to amend its county plan, the county may implement TANF ECF funded subsidized employment programs prior to submitting a county plan amendment to CDSS, as long as the amendment is submitted to CDSS by November 1, 2009. CalWORKs County Plans can be found on the Department's website at the following internet address: <http://www.cdss.ca.gov/cdssweb/PG94.htm>

The CalWORKs County Plan regulations are listed in MPP 42-780.5-.53, and instructions for submitting a county plan amendment are outlined in All County Information Notice I-20-09 available on the Department's website at: http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acin/2009/I-20_09.pdf

Reporting Requirements

ACF has provided written confirmation to CDSS that TANF ECF funds received are not subject to the federal quarterly reporting requirements of Section 1512 of ARRA. However, CDSS may need to collect data elements from the counties in order to meet additional reporting requirements at the state level established by the Governor's Recovery Task Force.

CDSS is working with CWDA to develop a reporting mechanism for TANF ECF. A separate All County Letter will be issued to transmit county data reporting requirements for TANF ECF.

Auditing

Both federal and state control agencies are closely monitoring the use of all ARRA funds. The state has been and will continue to be subject to audits regarding how these funds are used. Counties should be aware that if a federal or state agency finds that a county is reimbursed for an expense that is not allowed under or is inconsistent with TANF ECF rules, the county must reimburse the CDSS for the disallowed expenses and any monetary penalty imposed (Welfare and Institutions Code 10545.1).

Ongoing Efforts

CDSS is continuing collaboration with the CWDA and CWD workgroup on strategies to expand non-recurring short-term benefit programs and basic assistance. Program and claiming guidelines that result from this effort will be released in a separate ACL and CFL.

Additionally, CDSS will continue to work diligently to provide counties with ongoing guidance in a timely matter as official federal guidance on TANF ECF is received and as TANF ECF workgroup progress is made.

We encourage CWDs to design and expand subsidized employment programs in order to maximize the amount of TANF ECF funding that can be accessed. However, as previously mentioned, this federal funding and state authority is time limited; after September 30, 2010, other sources of funding may not exist to continue the expanded programs.

If there are any policy questions regarding this letter, please contact your county's CDSS Employment Bureau analyst at (916) 654-2137. For fiscal policy and claiming questions, please direct them to the CDSS Fiscal Systems Bureau electronic mailbox at fiscal.systems@dss.ca.gov.

Sincerely,

Original Document Signed By:

CHARR LEE METSKER
Deputy Director
Welfare to Work Division

Attachments

Attachment 1

ECF-Eligible Populations – Subsidized Employment

Population	Eligibility
CalWORKs Applicants	Yes, if eligible as a “needy family”
CalWORKs Recipients	
Mandatory welfare-to-work (WTW)	Yes
Exempt from WTW	Yes, if volunteering
Sanctioned	Yes, if sanction is cured or the subsidized employment position is part of a plan to stop a sanction
Safety Net	Yes
Child Only , if legally eligible to work in the United States	Yes, as “needy family”
Dependent teen in CalWORKs household	Yes
Former CalWORKs Recipients (within 12 months)	Yes
KinGAP	Yes, if eligible as a “needy family”
Family Reunification	
Families receiving CalWORKs family reunification services under AB 429	Yes
Families receiving non-AB 429 family reunification services and the child is absent for 12 months or less	Yes, if eligible as a “needy family”
Non-Custodial Parents	
Non-Custodial parents of CalWORKs children	Yes, if eligible as a “needy family”
Non-Custodial parents of children not receiving CalWORKs	Yes, if eligible as a “needy family”
Families not Receiving CalWORKs	Yes, if eligible as a “needy family”

Attachment 2

2009 Federal Poverty Level Guidelines

Persons in Family	Poverty Level Guideline Annual Income	200 Percent of Poverty Level Guideline Annual Income
1	\$10,830	\$21,660
2	14,570	29,140
3	18,310	36,620
4	22,050	44,100
5	25,790	51,580
6	29,530	59,060
7	33,270	66,540
8	37,010	74,020
≥ 9	Add \$3,740 for each additional person	Add \$7,480 for each additional person

Source: Federal Register: January 23, 2009 (Volume 74, Number 14) [Notices]
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