



CDSS

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STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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EDMUND G. BROWN JR.
GOVERNOR

December 31, 2013

ALL COUNTY LETTER NO. 13-111

TO: ALL COUNTY WELFARE DIRECTORS
ALL CALWORKs PROGRAM SPECIALISTS
ALL CALFRESH PROGRAM SPECIALISTS
ALL COUNTY REFUGEE COORDINATORS
ALL CONSORTIUM PROJECT MANAGERS
ALL COUNTY SPECIAL INVESTIGATIVE UNITS

SUBJECT: CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO KIDS
(CalWORKs) PROGRAM: CHANGES IN THE TREATMENT OF
MOTOR VEHICLES

REFERENCE: ASSEMBLY BILL (AB) 74 (CHAPTER 21, STATUTES of 2013);
SENATE BILL (SB) 98 (CHAPTER 358, STATUTES of 2013);
WELFARE AND INSTITUTIONS CODE SECTIONS 11155;
AND MANUAL OF POLICIES AND PROCEDURES (MPP) SECTION
42-215.4; ALL COUNTY LETTERS No. 92-104 AND No. 13-89

The purpose of this letter is to provide direction to County Welfare Departments (CWDs) on the implementation of AB 74, as well as the changes included in SB 98, regarding the treatment of vehicles in the CalWORKs Program. This policy change should be automated into the consortia systems by the effective date provided, or a process must be put in place to meet the requirements of the policy until necessary automation changes are completed.

This bill makes significant changes to the valuation and treatment of vehicles when determining resource eligibility for CalWORKs applicants and recipients. These changes are intended to reduce the workload on CWD staff by eliminating some of the steps currently required to determine the value of vehicles and simplifying the verification process.

The following bullet points highlight these changes:

REASON FOR THIS
TRANSMITTAL

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

- CalWORKs applicants and recipients will now be able to retain non-exempt vehicles that have an equity value of \$9,500 or less. Equity is the amount of the Fair Market Value (FMV) of the vehicle less encumbrances (amount owed on vehicle, if any).
- The new law allows clients to self-certify the amount of encumbrances, if any.
- The department further specifies that clients may also self-certify the vehicle's FMV.
- Any equity value in excess of the \$9,500 vehicle asset limit will be counted as a resource attributable toward the Assistance Unit's (AU's) \$2,000 (or \$3,250 for families with an aged or disabled household member) maximum resource limit.
- The \$9,500 equity threshold will be adjusted upward annually for an increase, if any, in the United States (US) Transportation Consumer Price Index (CPI) for All Urban Consumers.
- The existing \$1,500 equity exemption will be eliminated effective January 1, 2014.
- A new exemption has been added. Any vehicle for which ownership has been transferred to the client as a gift, donation, or family transfer, as defined by the Department of Motor Vehicles (DMV), will not count against the family's maximum resource limit.

The changes included in AB 74 and SB 98 become effective on January 1, 2014. AB 74 provided the California Department of Social Services (CDSS) with authority to implement the new vehicle changes via All County Letter (ACL), to be followed by emergency regulations, which must be promulgated by July 1, 2015. SB 98 further clarified that the changes in statute apply to all motor vehicles, both licensed and unlicensed.

Current Rules

Current regulations require CWDs to determine FMV for non-exempt vehicles by using Kelly Blue Book values or an estimate of the vehicle's value provided by the client, and affords the applicant or recipient the right to provide alternative verification pursuant to instructions in ACL No. 92-104. These regulations will be obsolete effective December 31, 2013. In addition, as of January 1, 2014, CWDs will no longer use MPP Sections 42-215.44 through 42-215.441 and Section 42-215.461 (Handbook), which require CWDs to evaluate the value of CalWORKs clients' vehicles using the \$4,650 limit.

New Rules

Self-Certification

CWDs only need to determine the equity value of vehicles when the vehicle is not otherwise exempt. Effective January 1, 2014, applicants and recipients shall be allowed to self-certify FMV of all vehicles in the AU, as well as any encumbrances. Any equity value that exceeds \$9,500 shall be counted toward the AU's CalWORKs resource level. To self-certify a vehicle's FMV and encumbrances, clients will be required to complete and submit to the CWD a new form, the CW 80 (Self-Certification Form for Motor Vehicles), developed by CDSS. The CW 80 form is a required form that will be used by clients to self-certify the FMV of each vehicle, as well as the amount that the client owes on each vehicle. CWDs will use the information on this form to determine the equity value of all vehicles and how much value to count toward the AU's resource level. CWDs shall assist clients in determining the FMV of their vehicle, using the Kelly Blue Book or other reputable resources if the client requests assistance or is unable to determine the vehicle's FMV on their own. The CW 80 also allows clients to identify if the vehicle meets one of the exemptions listed on page four of this ACL. If the vehicle can be exempted, the client will not need to declare the FMV of the vehicle or amount owed for the vehicle. If a client states that the vehicle was obtained as a gift/donation or family transfer, the client must obtain verification from the DMV, and the statement on the CW 80 cannot be accepted as self-certification.

If the applicant or recipient determines that he or she overestimated or underestimated the value of the vehicle or the encumbrances, he or she shall be afforded the opportunity to provide estimates or other verification, pursuant to ACL No. 92-104 that reflects a more accurate estimate of the vehicle's value. Any Notice of Action denying an application or discontinuing benefits due to excess resources resulting from the final vehicle value used for the asset test shall inform the applicant or recipient of this right to rebut that vehicle's value.

US Transportation Consumer Price Index

The CPI is an annual publication that measures the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services. The United States Department of Labor, Bureau of Labor Statistics, publishes the US Transportation CPI for All Urban Consumers annually every June. If and when the CPI is adjusted, the department shall use the new CPI to determine if any increase to the vehicle equity threshold should be made. If an adjustment to the equity threshold is warranted, CDSS will notify CWDs of any changes via an ACL.

New Exemption

AB 74 also provides for a new vehicle exemption. Effective January 1, 2014, all motor vehicles in the home in which ownership has been transferred to the client as a gift/donation, or family transfer, will be exempt and shall not be counted toward the family's maximum resource limit. Clients will be required to provide verification from the DMV of the gift/donation, or family transfer. To obtain this verification, an applicant or recipient

will be required to request a copy, via U.S. mail, of the original title transfer or bill of sale documentation from the DMV indicating that the vehicle was a gift/donation, or family transfer. DMV charges a fee of \$5.00 for this verification. Once the applicant or recipient receives this verification from the DMV, they would then submit this verification to the CWD. CWDs are reminded of their duty to assist the applicant or recipient in obtaining verification and the payment of fees to DMV if the client is unable to obtain the verification or requests assistance.

In addition, all current vehicle exemptions as stated in MPP Section 42-215.431, will continue to apply, with the exception of (h) as currently written, which exempts vehicles when the equity value of the vehicle is one thousand five hundred and one dollars (\$1,501) or less. The new vehicle exemption (gift, donation, or transfer) replaces the current \$1,501 exemption in this section.

The entire value of any licensed vehicle shall be exempt if the vehicle meets any of the following criteria:

- (a) It is used primarily for income-producing purposes;
- (b) It annually produces income that is consistent with its FMV, even if used on a seasonal basis;
- (c) It is necessary for long distance travel, other than daily commuting, that is essential to the employment of a family member;
- (d) It is used as the family's residence;
- (e) It is necessary to transport a physically disabled family member, including an excluded disabled family member, regardless of the purpose of the transportation;
- (f) It would be exempted under any of subparagraphs (a) through (d), inclusive, but the vehicle is not in use because of temporary unemployment;
- (g) It is used to carry fuel for heating for home use, when the transported fuel or water is the primary source of fuel or water for the family.
- (h) Ownership of the vehicle was transferred through a gift, donation, or family transfer, as defined by the Department of Motor Vehicles.

New Form – CW 80

As stated above, if the applicant or recipient owns a non-exempt vehicle, the individual must complete the CW 80 form and return it to the CWD, in order to determine resource eligibility for the CalWORKs applicant or recipient AU when self-certifying.

The form will be used for clients to self-certify, under penalty of perjury, the FMV and encumbrances, if any, of their vehicle(s). The CW 80 form will also be used by the client to identify that the vehicle meets one of the exemptions at MPP Section 42-215.431, as well as the new exemption. This form must be submitted when the AU reports on the SAR 7 that they've acquired a non-exempt vehicle and with each annual redetermination. The CW 80 is a required form; substitutes are permitted with prior approval by CDSS.

Definition of Encumbrances

An encumbrance is any charge or claim against a property. The encumbrance does not need to be held by a commercial entity or a person in the course of a business. The person or entity that issues the encumbrance has a legal right to the property. The encumbrance owed will remain in effect until the actual owner satisfies the debt or resolves the issue with the other party. For purposes of determining the equity value of the AU's motor vehicles, the encumbrance is the amount that the AU is obligated to pay for the vehicle or the amount owed on the vehicle. Fees that must be paid in order to have the vehicle's ownership transferred, for overdue registration, or other charges, are not considered encumbrances when determining equity value. Applicants and recipients will also be self-certifying the amount of the encumbrance.

Examples of Calculations to Count Toward Resource Limit

Example #1:

An AU self-certifies that they own a non-exempt motor vehicle with a FMV of \$3,500. The AU still owes \$1,450 on the vehicle (the encumbrance), resulting in a total equity value of \$2,050 for this vehicle. Since the total equity value is less than \$9,500, the value is excluded from resource consideration, and the equity of the vehicle will not be counted as a resource toward the AU's maximum resource limit. The equity (FMV - encumbrance) is less than \$9,500.

\$3,500	FMV of the motor vehicle
- \$1,450	Less Encumbrances
<u>= \$2,050</u>	Total Equity Value
\$ 0	Amount Counted Toward Resource Limit

Example #2:

In this example, the applicant or recipient owns a non-exempt vehicle with an equity value that exceeds \$9,500. The AU self-certifies that the FMV is \$14,000, and they owe \$3,000. After subtracting the amount owed on the vehicle from the FMV, the CWD determines the equity value of the motor vehicle is \$11,000. In this case, the equity value of the vehicle exceeds the \$9,500 limit by \$1,500. The \$1,500 is counted toward the AU's maximum resource limit. If the AU's total assets, including the \$1,500, fall below the \$2,000 (or \$3,250 for families with aged/disabled household members) maximum resource limit, the AU is resource-eligible.

Computation of equity counted toward the vehicle resource limit:

\$14,000	FMV of the motor vehicle
<u>- \$ 3,000</u>	Less Encumbrances
\$11,000	Total Equity Value
<u>- \$ 9,500</u>	Less \$9,500
= \$ 1,500	Amount Counted Toward Resource Limit

Example #3:

This example shows a client who received a vehicle from her father and provides the CWD with verification from DMV that the vehicle was a gift. Regardless of the value of this motor vehicle, because it was given to her as a gift, the vehicle is completely exempt from consideration as a resource. Even if the FMV of the motor vehicle is well over the \$9,500, the CWD cannot inquire into or determine the value, or count the value of the motor vehicle toward the AU's \$2,000/\$3,250 resource limit. The CWD would not need to perform a calculation; however, the client will need to obtain verification from DMV that the vehicle is a gift/donation, or family transfer.

As with all CalWORKs eligibility determinations, if the CWD has reason to believe the information provided by the client may be questionable or incorrect, and that this potential discrepancy would affect the AU's eligibility for assistance, the CWD must take steps to resolve potential discrepancies with the client. Only if the CWD is unable to resolve the discrepancy or has reasonable grounds to suspect the client may be intentionally providing false information, the CWD worker shall submit a referral to their Special Investigations Unit to request an investigation of the case.

For example, a client states on the CW 80 that she has a late model vehicle valued at \$2,000 but does not provide any information on the CW 80 to explain the very low value. Since new cars have a value that significantly exceeds \$2,000, it is reasonable for the CWD worker to question the accuracy of the estimated FMV. The worker must contact the client to inquire whether the client may have made a mistake. The following is an example of a possible mistake a client may make: (The client could have written

\$2,000 instead of \$22,000; it could be a salvage car; she could have confused equity value with FMV, etc.). The worker would permit the client to correct the CW 80 and would re-evaluate the AU's eligibility. If the client is not able to explain the low value and does not submit a corrected CW 80, the worker may refer the matter to SIU. Please refer to ACL No. 13-89 regarding when it would be appropriate to refer the case to the CWD's SIU for investigation.

Camera Ready Copies and Translations of the CW 80

For camera-ready copies in English, contact the Forms Management Unit at fmudss@dss.ca.gov. If your office has internet access you may obtain these forms from the CDSS webpage at http://www.dss.cahwnet.gov/cdssweb/FormsandPu_271.htm. When all translations are completed per Manual of Policies and Procedures (MPP) Section 21-115.2, including Spanish forms, they are posted on an on-going basis on the CDSS webpage.

Copies of the translated forms can be obtained at the following webpage at http://www.dss.cahwnet.gov/cdssweb/FormsandPu_274.htm. For questions on translated ACL materials, please contact Language Services at (916) 651-8876. Until translations are available, recipients who have elected to receive materials in languages other than English should be sent the English version of the form or notice along with the GEN 1365-Notice of Language Services and a local contact number.

If you have any questions regarding this letter, please contact the CalWORKs Eligibility Bureau at (916) 654-1322.

Sincerely,

Original Document Signed By:

TODD R. BLAND
Deputy Director
Welfare to Work Division

Attachment