



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 19, 2014

ALL COUNTY LETTER (ACL) NO. 14-100

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 CALWORKS PROGRAM SPECIALISTS
 ALL CALFRESH PROGRAM SPECIALISTS
 ALL COUNTY CONSORTIUM PROJECT MANAGERS
 ALL COUNTY CHIEF WELFARE FRAUD INVESTIGATORS
 ALL STAGE ONE CHILD CARE COORDINATORS
 ALL ALTERNATIVE PAYMENT CHILD CARE PROGRAMS

SUBJECT: CHANGES IN ELIGIBILITY FOR ALL PEOPLE WITH A PRIOR FELONY DRUG CONVICTION IN THE CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO KIDS (CalWORKs) AND CALFRESH PROGRAMS

REFERENCE: TITLE 7 UNITED STATES CODE SECTION 862a; ASSEMBLY BILL (AB) 1468 (CHAPTER 26, STATUTES OF 2014); WELFARE AND INSTITUTIONS CODE SECTIONS 11251.3 & 18901.3; MANUAL OF POLICIES AND PROCEDURES (MPP) SECTIONS 40-107; 40-118; 40-173; 40-181; 44-316; 63-402; 82-506; 82-510; 82-828; ALL COUNTY WELFARE DIRECTORS LETTER DATED JULY 1, 2014; ALL COUNTY LETTER NO. 01-66; 02-66; 04-59; 13-70; 14-26; 14-78; ALL COUNTY INFORMATION NOTICE NO I-03-05; I-17-05

The purpose of this letter is to transmit instructions to County Welfare Departments (CWDs) regarding the changes in eligibility in the CalWORKs and CalFresh programs pertaining to individuals with a prior felony drug conviction. The changes in eligibility provided within this letter are due to the enactment of recent legislation (AB 1468) which repealed the lifetime ban on individuals with a prior felony drug conviction to be eligible for CalWORKs and CalFresh benefits.

Effective April 1, 2015, no person will be denied aid because they have a prior felony drug conviction and individuals who are currently ineligible for the CalWORKs and/or CalFresh programs and therefore excluded from the Assistance Unit (AU)/household (HH) will no longer be excluded by law. These individuals must be added to the AU/HH effective April 1, 2015, if all other conditions of eligibility are met.

Background

Federal law prohibits individuals who have been convicted of certain felony drug offenses from receiving Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP) benefits, but allows a state to opt out partially or entirely from the provisions of the automatic aid disqualification through the enactment of state legislation.

Effective April 1, 2015, AB 1468 repeals the existing prohibition from receipt of CalWORKs and CalFresh benefits for individuals convicted in state or federal court after December 31, 1997, of a drug related felony. AB 1468 enacts statutory changes to the CalWORKs program by amending Welfare and Institutions (W&I) Code section 11251.3 to state that an individual with a prior felony drug conviction shall be eligible for CalWORKs benefits, so long as the individual is compliant with the terms of his or her probation or parole, if applicable, including participation in a government recognized drug treatment program, if required. For CalFresh, AB 1468 enacts statutory changes to the program by amending W&I Code section 18901.3 to state that individuals with a prior felony drug conviction shall be eligible to receive CalFresh benefits so long as the individual is compliant with the terms of his or her probation or parole, if applicable, including participation in a government recognized drug treatment program, if required.

Identifying and Informing Individuals of Their CalWORKs Eligibility

CWDs shall review current caseload data to determine existing CalWORKs cases in which an individual with a prior felony drug conviction currently excluded is known to the case. All AUs identified shall be provided the TEMP 3005 (attached) informing them of the change in state law and that they will become eligible to receive benefits effective April 1, 2015. The notice shall be provided no later than February 18, 2015.

To ensure all CalWORKs recipients are aware of the recent statutory changes, CDSS strongly encourages CWDs to display the informing notice in CWD offices and distribute the informing notice along with other documentation sent to all CalWORKs applicants and recipients through the normal course of business beginning January 2015 through December 2015. In addition, CWDs are encouraged to discuss the changes in CalWORKs eligibility at application and redetermination interviews or at other points of contact with CalWORKs and CalFresh applicants and recipients.

Adding Individuals to the CalWORKs Assistance Unit

CWDs shall review current case file information, specifically the most recent eligibility report (SAWS 2 PLUS or SAR 7, as applicable) and the Statewide Automated Welfare System (SAWS) to determine if the required eligibility documentation for the currently excluded individual is on file.

If the CWD determines that additional eligibility documentation is required, the CWD shall notify the AU of the documentation needed as soon as possible, but no later than February 28, 2015. CWDs are reminded of their responsibility to assist applicants and recipients in collecting required eligibility documentation as well as the requirement to use the CW 2200 form to request all verification. Refer to ACL No. 14-26 for additional information regarding CalWORKs verification requirements and CWDs responsibilities.

CWDs are reminded that they shall not request additional eligibility verification or documentation that is not already possessed by or known by the CWD or required and shall follow existing rules regarding county initiated mid-period actions and mandatory and voluntary mid-period reports according to the AU's applicable reporting system pursuant to MPP section 44-316. It is anticipated that the CWD will have everything on file necessary to determine eligibility for CalWORKs.

Once the CWD confirms all required eligibility documentation is on file, clients shall be provided the attached Notice of Action (NOA) TM82-832. This NOA informs the AU that the person with a prior felony drug conviction has been added to the AU due to a change in state law effective April 1, 2015. The NOA also includes the new grant amount based on the increase in the number of persons aided in the AU. The NOA also indicates that the newly aided adult may be required to participate in Welfare-to-Work. Subsequently, CWDs shall inform CalFresh households of the potential decrease to their CalFresh benefits as a result of the increase to their income. This action shall be completed no later than March 20, 2015.

Adding Optional Persons or New Members to the Assistance Unit

If the county has knowledge that an optional adult is not included in the AU due to the person's prior felony drug conviction, the county shall send the AU the TEMP 3005, as specified above. Optional adults will not *automatically* be added to the AU effective April 1, 2015. If an AU contacts the CWD to request the inclusion of an optional person, as defined in MPP section 82-828, or if a new person joins the AU mid-period, CWDs shall follow existing rules regarding adding a person mid-period, pursuant to MPP sections 44-316.312 (SAR) for Semi-Annual Reporting (SAR) cases and 44-316.325 (AR/CO) for Annual Reporting/Child Only (AR/CO) cases.

Identifying and Adding Individuals with a Prior Felony Drug Conviction to the CalFresh Household

Under current CalFresh regulations, the income and resources of individuals ineligible for CalFresh benefits due to their felony drug convictions are already counted in their entirety (MPP section 63-503.44). Therefore, any excluded household member who becomes eligible for CalFresh benefits as a result of this statute will become an included household member, which may result in additional CalFresh benefits for the household (MPP section 63-504). Newly qualified individuals with a prior felony drug conviction shall be added to the CalFresh household effective April 1, 2015. CWDs must identify individuals who were previously excluded due to their previous ineligible felony drug conviction in order to add them to the case prior to the April 1 effective date. CWDs shall use the CF 1468 TEMP to inform the CalFresh household of the added household member. CWDs shall provide timely and/or adequate notice for changes resulting in an increase or decrease in benefit level.

CalFresh Applications

For CalFresh households that apply in March 2015 with a member who is ineligible due to a prior felony drug conviction, special instructions apply:

- Mixed households which contain individuals with a prior felony drug conviction after meeting all other eligibility requirements, shall be approved for benefits minus the member with a previous felony drug conviction, who shall then be added effective April 2015. The household shall not be required to request the previously excluded person to be added.
- Households comprised entirely of individuals with a previous felony drug conviction shall be approved effective April 2015.

Verification of the Status of Parole or Probation

Applicants and recipients with prior felony drug convictions must be in compliance with the terms of their parole or probation in order to be eligible to receive CalWORKs or CalFresh benefits. AB 1468 mandates that CWDs use existing protocols to obtain verification that individuals with a previous felony drug conviction are in compliance with the terms of their probation or parole. No additional verification shall be required of individuals with a previous felony drug conviction, outside of what CWDs require of all other CalWORKs and CalFresh applicants and recipients, to verify the status of an applicant or recipient's parole or probation. CWDs are reminded that CDSS distributes the Fleeing Felon Match (FFM) report to CWDs on a monthly basis. This report matches records obtained from the Department of Justice Wanted Persons File against the Medi-Cal Master Eligibility File (MMEF). The FFM report provides counties with information for current recipients who are fleeing felons or parole or probation violators.

CWDs shall refer to the offense code within the FFM report to determine recipients who are in violation of probation and/or parole and therefore ineligible for CalWORKs and/or CalFresh benefits. CWDs should continue the practice of verifying the violation with the issuing law enforcement agency before making an eligibility determination. Recipients found to be ineligible for benefits shall be removed in accordance with reporting system rules pursuant to MPP section 44-316.32.

Change in the Level of CalWORKs Tier 2 Income Reporting Threshold

MPP section 44-316.324(a)(2) defines the Tier 2 Income Reporting Threshold (IRT) as the level of income likely to render the AU ineligible for CalWORKs benefits. For cases that are subject to the Tier 2 IRT, when the size of the AU changes, the level of the AU's IRT changes. Therefore, when individuals with a prior felony drug conviction are added to a case with a Tier 2 IRT, the AU will need to be notified of a change in the AU's IRT. CWDs shall notify AUs of a change in the IRT, as applicable, pursuant to MPP section 40-173.8. **NOTE:** Further instructions regarding an increase in the levels of all three tiers of the IRT effective April 1, 2015, based on the increase in the Maximum Aid Payment (MAP) levels will be released under separate cover.

Transition between Reporting Systems

The inclusion of adults with a prior felony drug conviction in a CalWORKs AU will impact cases currently subject to the AR/CO reporting system. In AR/CO cases, once an individual with a prior felony drug conviction is determined eligible for CalWORKs and is added to the AU, the case will transition to the SAR. Pursuant to MPP section 40-107(j), CWDs shall notify the AU of the change in reporting system from AR/CO to SAR. CWDs are reminded that they may notify the AU of the change in reporting systems by using the CW 2212 form. CDSS encourages CWDs to send the CW 2212 along with the Notice of Action (NOA) indicating the adult is added to the AU and approved for CalWORKs effective April 1, 2015. AR/CO cases that aid an adult with a prior felony drug conviction will transition to SAR effective April 1, 2015. CalFresh cases will continue to be assigned to the appropriate reporting system according to existing CalFresh rules, based on HH circumstances.

Change in Aid Codes for CalWORKs Cases

CWDs were previously instructed in ACL No. 13-70 to move certain cases that contained an excluded individual with a prior felony drug conviction to aid codes K1 or 3F for single parent or two parent cases, respectively. Cases in which the excluded person is determined eligible for CalWORKs shall be changed to the aid code applicable to the new AU composition. Effective April 1, 2015, there will no longer be any identifying information pertaining to those with prior felony drug convictions; these

cases will be coded consistent with other adult-eligible CalWORKs cases. CWDs may refer to ACL No. 02-66 or ACL No. 01-66 for additional information regarding CalWORKs aid codes. CDSS plans to release additional instructions pertaining to aid codes and funding sources for the newly eligible population under separate cover.

Child Support Requirements and Collections for CalWORKs Cases

As mentioned in the previous section, CDSS implemented the new K1 and 3F aid codes for Safety Net, Drug Felony Excluded, and Fleeing Felon child-only cases via ACL No. 13-70. These aid codes were implemented to ensure that certain child-only cases would be funded through a new solely state funded program and would not be subject to the TANF work participation requirements. Upon moving these cases into the solely state funded program, CDSS issued ACL No. 14-78 which provided instructions to CWDs on how to treat cases in these aid codes. As a result, the following changes were applied to K1/3F cases:

- Due to the changes in statute, CWDs no longer require the parents/caretaker relatives of the aided children to assign their support rights to the state/county as a condition of eligibility for CalWORKs, nor do they require them to cooperate with child support enforcement requirements at MPP sections 82-506 and 82-510;
- CWDs no longer sanction a K1/3F parent/needful caretaker relative or apply a penalty to the aided children for failure to assign rights or cooperate with the Local Child Support Agency (LCSA) because of the changes in statute;
- CWDs no longer keep the child support collected on behalf of the aided children to reimburse CalWORKs state/county for aid paid to these children; and
- K1/3F cases now receive any child support payments collected by the LCSA directly, and while a \$50 disregard still applies, any reasonably anticipated child support income beyond \$50 is counted as unearned income against the child-only grant.

With the passage of AB 1468, individuals with a prior felony drug conviction will no longer be excluded from the AU. When the formerly excluded parent/caretaker relative with a prior felony drug conviction starts receiving CalWORKs cash assistance, the case may no longer be identified by a K1 or 3F aid code and will not be funded under solely state funded program funds. As of April 1, 2015, these cases will once again be subject to child support requirements and shall be referred for child support services and collection. As a condition of eligibility, the parent/caretaker relative must agree to assign support rights to the state or be sanctioned, and in order to avoid the 25 percent child support penalty, the adult will also be required to cooperate with the LCSA in determining paternity of the aided children and doing whatever is required by the LCSA to cooperate with child support enforcement, unless good cause is found to exist per MPP section 82-512.

As stated in ACL No. 14-78, whenever an AU is moved out of a K1 or 3F aid code back into a non-K1/3F aid code, the AU will be subject to all of the CS Enforcement Program Regulations in accordance with MPP section 82-500. AUs will be required to complete and sign new CW 2.1NA *Notice and Agreement for Child, Spousal and Medical Support* and the CW 2.1Q *Child Support Questionnaire* forms, and penalties and sanctions will again apply if the recipient fails to comply with CS requirements without good cause. CWDs must only apply penalties and sanctions prospectively, after having allowed the AU to comply with CS requirements.

In addition, these families will no longer directly receive the entire child support amount collected from an absent parent and will instead receive only the \$50 child support disregard. CWDs must reevaluate reasonably anticipated child support income for these families since child support will be retained by the county and no longer provided directly to the family.

As a result of this change, the CWD will need to determine if any changes to the AU's grant are necessary pursuant to MPP section 44-316.312. CDSS also strongly encourages CWDs to explain all of the changes in child support requirements and collections to families who will be impacted by this change so that the family is aware of possible penalties and sanctions that might apply if they fail to follow the new rules and that the amount of child support payments they receive will change. Child support that is collected by the LCSA will be used to reimburse aid paid to the family, and anytime a full month of aid is repaid in this manner, that month will not count toward the adult's 48-month time clock.

Example: An AR/CO case that is currently receiving \$200 per month in direct child support (for an aided child) only has \$50 of this unearned income disregarded. The remaining \$150 is counted against the AU's grant. However, once the adult is added to the AU in April 2015, any child support collected will be retained by the LCSA/CWD, with the exception of the \$50 disregard, which will be passed on to the family. The CWD must determine what income the family can reasonably anticipate for the remainder of the SAR period and make any changes to the AU's grant based on the change in child support income pursuant to MPP section 44-316.312. The CWD shall contact the LCSA if the CWD is unsure of when the child support collections will begin, in order to determine the AU's reasonably anticipated income.

Referrals to Welfare-to-Work (WTW) Services for CalWORKs Cases

All adult recipients of CalWORKs are required to participate in WTW activities, unless a WTW exemption applies or the family is in need of family stabilization services. Adults

with a prior felony drug conviction who are added to the AU as a result of AB 1468 will be subject to WTW requirements, eligible for supportive services, and may qualify for WTW exemptions like any other CalWORKs recipient.

CWDs must inform adults with a prior felony drug conviction who are added to an existing CalWORKs AU of the requirement to participate in WTW no later than February 28, 2015. The advance notice should include all relevant information provided to any other CalWORKs applicant or recipient about the WTW program, including hourly participation requirements, exemptions from WTW, domestic abuse services and program waivers, and sanctions for failing to comply with WTW participation requirements.

Once added to the AU, the CWD must enroll the eligible adult in WTW at the appropriate point in the WTW process, provide necessary supportive services and engage him or her in WTW activities, unless it is determined that he or she is exempt from WTW or eligible for a domestic abuse waiver, like any other CalWORKs recipient.

Effective April 1, 2015, adults with a prior felony drug conviction approved for aid and entering the CalWORKs caseload must be engaged in WTW in accordance with the normal CalWORKs flow. All newly eligible recipients are required to sign a plan. However, CWDs should be mindful of participants who are already engaged in work and/or education activities and should look for ways to support their continued participation in those activities with minimal interruption. For example, adults working enough hours to meet hourly requirements may opt out of assessment and have a WTW plan developed over the phone to avoid missing work to attend an in-person appointment.

CWDs must inform individuals with prior felony drug convictions that as a current CalWORKs recipient they are entitled to receive child care, transportation, and other supportive services necessary for their WTW activities, and that once they receive cash aid, they will continue to be eligible for child care services so long as they qualify as current or former CalWORKs recipients. CWDs should inform individuals with prior felony drug convictions who are currently receiving subsidized child care services through other sources that they may now be eligible for child care services through the CalWORKs program, and may seek child care assistance from the CWD. They should also be informed of the benefits of doing so.

Benefit Issuance for CalWORKs and CalFresh Cases

Beginning April 1, 2015, CalWORKs benefits shall be issued to individuals with a prior felony drug conviction in the same manner benefits are issued to all CalWORKs applicants and recipients. Specifically, the practice of issuing benefits in the form of

voucher or vendor payments solely due to an individual's prior felony drug conviction is no longer appropriate as of April 1, 2015. However, if the CWD has determined another reason or circumstance which would require the county to issue benefits in the form of vendor or voucher payments, this practice may continue, pursuant to W&I Code section 11453.2.

Changes to Application, Notices of Action, and Forms

The CDSS recognizes that the SAWS 2 PLUS and CF 285 applications, as well as several other state forms and NOAs will require revisions in order to incorporate these changes in eligibility in the CalWORKs and CalFresh programs. CDSS is currently in the process of updating the required state forms and plans to release the revised forms under separate cover. The consortium shall complete all programming and CWDs must ensure an appropriate process is in place in order to guarantee the appropriate revised forms are used and/or distributed to clients beginning April 1, 2015.

Forms and NOAs included in this letter are as follows:

TEMP 3005 (12/14) - Changes for People with a Prior Felony Drug Conviction - This form was created for CWDs to send to all CalWORKs and CalFresh cases that include an ineligible individual due to a prior felony drug conviction in the home to inform them that they are eligible for CalWORKs and/or CalFresh benefits effective April 1, 2015. This form is required with no substitutes permitted.

TM82-832 (12/14) - NOA message - Lifetime Ban for Prior Felony Drug Conviction Removed - This message was created to send to a CalWORKs AU when their AU size has increased due to the inclusion of a person with a prior drug felony conviction. This message also informs AUs that their monthly grant has increased due to the inclusion of an additional AU member. Instructions are included on the TM82-832. This form is required with no substitutes permitted.

CF 1468 TEMP (12/14) - NOA Form - Lifetime Ban for Prior Felony Drug Conviction Removed - This form was created to send to a CalFresh HH when their HH size has increased due to the inclusion of a person with a prior felony drug conviction. This form also informs HHs of their new benefit amount. This form is required with substitutes permitted. This form will be forthcoming.

Required Form - No Substitute Permitted

Forms in this category are required forms that the CWD may not modify or restructure. However, overprinting or reformatting under the conditions outlined in Operations Manual section 23.400.211, Overprinting Required Forms and section 23-400.212, Electronic Data Processing (EDP) Modifications, is permitted.

Required Form - Substitutes Permitted

Forms in this category are required forms for which modifications or substitutions with prior Department approval are permitted (see Operations Manual Section 23-400.22, Approval Procedure). The CWDs may modify these forms to add or obtain information that does not (1) conflict with program policy/regulations, or (2) change the legal content of the form. Ordinarily, merely rewording the content of a form in this category will not be approved. However, such suggestions for language improvement will be considered by the Department in future revisions.

Camera-Ready Copies and Translations

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 MPP section 21-115.2, they are posted on an on-going basis on the CDSS webpage. Copies of the translated forms can be obtained at http://www.dss.cahwnet.gov/cdssweb/FormsandPu_274.htm.

For questions on translated 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.

The CWDs shall ensure that effective bilingual services are provided in the language identified by the applicant or recipient. This requirement may be met through utilization of paid interpreters, qualified bilingual employees, or qualified employees of other agencies or community resources. These services shall be provided free of charge to the applicant/recipient. In the event that CDSS does not provide translations of a form, it is the CWD's responsibility to provide the translation if an applicant or recipient requests it. More information regarding the right of applicants or recipients to interpretation and translation services can be found in MPP section 21-115.

Regulation Changes

This ACL will be followed by regulations to incorporate the above changes.

Contacts

CDSS has created the attached table of key dates as a resource tool for CWDs to follow as these changes in eligibility are implemented. If you have any questions regarding this letter, please contact the CalWORKs Employment and Eligibility Branch at (916) 657-2128.

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For CalFresh program questions, please contact your county consultant or the CalFresh Policy Bureau at (916) 654-1896.

Sincerely,

Original Document Signed By:

TODD R. BLAND
Deputy Director
Welfare to Work Division

Attachments

ATTACHMENT ONE

AB 1468 - Key Implementation Dates CalWORKs and CalFresh Programs

Date	Action
January 1, 2015 through December 31, 2015	<p>CWDs encouraged to:</p> <ul style="list-style-type: none"> • Display information regarding the changes in eligibility in CWD lobby. • Review changes in eligibility during intake and redetermination interviews or other points of contact with clients. • Include TEMP 3005 when mailing other documents to clients during the regular course of business.
On or before: February 18, 2015	<p>CWDs shall:</p> <ul style="list-style-type: none"> • Notify all known individuals currently excluded from the AU/HH due to a previous felony drug conviction of the changes in eligibility via TEMP 3005.
On or before: February 28, 2015	<p>CWDs shall:</p> <ul style="list-style-type: none"> • Notify AU/HHs of any required eligibility documentation needed for the CWD to add the excluded individual to the AU/HH.
On or before: March 20, 2015	<p>CWDs shall:</p> <ul style="list-style-type: none"> • Notify the AU/HH of the change in benefit levels due to the change in law via the Notice of Action TM82-832 for CalWORKs and/or TEMP CF1468 for CalFresh.
Effective April 1, 2015	<ul style="list-style-type: none"> • State law changes and no person will be denied aid due to prior felony drug conviction. • Previously excluded individuals with prior felony drug convictions are added to the AU/HH.