

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



January 18, 2002

ALL-COUNTY LETTER NO. 02-03

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY WELFARE-TO-WORK
COORDINATORS
ALL COUNTY CIVIL RIGHTS COORDINATORS
ALL COUNTY CHILD CARE COORDINATORS

SUBJECT: CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO KIDS
(CalWORKs) PROGRAM COUNTY POST ASSESSMENT POLICIES AND
PROCEDURES

REFERENCE: ALL-COUNTY LETTER (ACL) 98-58
ALL COUNTY LETTER (ACL) 00-08

The purpose of this All County Letter (ACL) is to point out some problem areas related to the CalWORKs Welfare-to-Work (WTW) program and to remind counties that they must comply with all State statutes and regulations for the WTW program, specifically as they relate to referring CalWORKs recipients to WTW activities after they complete assessment.

It has come to the California Department of Social Services' (CDSS) attention that several counties have implemented one or more of the following post assessment policies that are contrary to State requirements because they result in WTW assignments that are not based on the circumstances and needs of a participant, as determined by an individualized assessment. These include:

1. Limiting participation in non-self-initiated education programs (non-SIPs), including, for example, General Equivalency Diploma (GED), Adult Basic Education (ABE), English-as-a Second Language (ESL), and vocational education programs, to an across-the-board time frame shorter than the WTW period of 18- or 24-months.
2. Limiting participation in education or training programs needed for employment to only CalWORKs WTW participants who lack a high school diploma or GED.
3. Limiting participation in education and training programs needed for employment to only CalWORKs WTW participants who already are employed.

REASON FOR THIS TRANSMITTAL

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

4. Imposing an across-the-board mandatory WTW participation requirement after assessment (e.g. 13 weeks of work experience [WEX]).

Counties that have implemented any of the improper WTW post assessment policies mentioned above must immediately rescind them and adopt new policies that conform to State regulations. These regulations allow for an 18- or 24-month period on aid, after signing the CalWORKs WTW plan that results from an individualized assessment, during which recipients may be allowed to participate in a range of allowable WTW activities. Allowable WTW activities may include education and training that is needed to assist an individual participant in obtaining either initial employment or higher paying employment leading to self-sufficiency.

While not all clients may need 18-or 24 months of education and/or training, there is no authority for counties to establish policies that are applied to all CalWORKs participants, regardless of an individual participant's circumstances or needs. However, it is important to note that counties have flexibility in designing and implementing their CalWORKs WTW programs, but they must provide an adequate range of services in accordance with Manual of Policies and Procedures (MPP) Section 42-716.3. As a result of this flexibility, there may be variances among county CalWORKs WTW programs, due to factors such as varying unemployment rates, industries/sectors, other local economic conditions, and the availability of services. Nonetheless, WTW assignments must be based on individualized assessments.

Both the length and type of post assessment WTW assignments must be based on an individualized assessment, as specified in Welfare and Institutions (W & I) Code Section 11325.22(b)(2). The assessment must consider, at a minimum, the recipient's educational level, employment experience, relevant employment skills, available program resources and local labor market opportunities. During the 18- or 24-month time limit, counties must make every effort to provide a CalWORKs WTW client with the allowable services, identified through the assessment process, that he/she needs to move toward self-sufficiency through employment.

There also is no authority in State statutes or regulations that permits counties to establish across-the-board mandatory WTW participation requirements after assessment. For example, counties cannot have an across-the-board policy requiring all CalWORKs WTW clients to participate in a specified number of weeks of WEX, after signing their welfare-to-work plan. As with referrals to other WTW activities, referrals to WEX must be based on an individualized assessment that indicates WEX is an appropriate activity for the participant.

In a separate post assessment matter, advocates have also reported that counties are not complying with State requirements to automatically refer participants who disagree with their CalWORKs assessment to a third party assessment.

Pursuant to MPP Sections 42-711.522(c)(5) and 42-711.556, counties must inform participants in writing, prior to or during appraisal, of the right to be automatically referred to a third party assessment when the participants do not agree with the results of their assessments. Counties should include this information in the welfare-to-work handbook that they give to clients to ensure that clients are informed of this right. This referral must occur whether or not a county has properly informed the client of his/her right to a third party assessment, in accordance with MPP Section 42-711.522(c)(5). The recipient is not required to request a third party assessment; the county must make the referral if the client informs the county that they are dissatisfied with the assessment. To further ensure that participants are given sufficient written information about their right to a third party assessment, CDSS will be adding a statement on the WTW 1, Welfare To Work Plan Rights and Responsibilities Form, to inform them of this right. The Department will also require this statement to be on any State-approved substitute form for the WTW 1 that is used by counties.

In addition, CDSS will be adding a statement on the WTW 2, Welfare To Work Plan – Activity Assignment, and WTW 3, Welfare To Work Plan Activity Assignment Change forms, informing recipients of their right to a state fair hearing. The Department will also require this statement to be on any State-approved substitute form for the WTW 1 and WTW 2 that are used by counties.

After numerous discussions, CDSS and the advocates have reached an agreement on resolving problems related to the implementation of the policies that are noted on Pages One to Two of this letter. The agreement includes the issuance of this ACL and the provision of retroactive relief, in the form of amended WTW plans and additional training time and/or restored cash aid, to participants who were negatively impacted by the policies.

To assist counties to identify WTW participants, who may be eligible to receive retrospective relief, CDSS is currently developing a combined informing notice/claim form that will be sent to current CalWORKs recipient families. This document contains information to help clients determine if they have a basis to file a claim for relief (having been subjected to one or more of the five improper policies mentioned on page one of this ACL). It will also provide instructions for submitting claims. The Department plans to use the statewide Medi-Cal quarterly mailing process, in May 2002, to distribute the informing notice/claim form. A separate ACL will be issued with instructions related to handling claims and timeframes after the details are worked out with input from the appropriate county workgroups.

In addition to the above, the Department wishes to remind counties that they must comply with State statutes and regulations regarding written CalWORKs program policies. Advocates continue to report that some counties lack written policies and/or

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guidelines, and that this lack contributes to the inconsistent treatment of clients by workers. MPP Section 11-501.3 requires counties to develop written standards for areas of the CalWORKs program in which they have discretion to adopt specific standards that affect a client's eligibility, grant amount, or WTW activities, including supportive services. Furthermore, MPP 11-501.3 specifically states that counties must make these standards available to the public upon request. CDSS already has issued two ACLs regarding the requirement for counties to develop and maintain written policies. For your reference, CDSS has attached ACL 00-08, dated January 3, 2000, and ACL 98-58, dated July 31, 2001 (see Attachment I).

If you have any questions regarding this letter, please call Ellen Horton, Employment Bureau, at (916) 651-6567.

Sincerely,

***Original Document Signed By
Bruce Wagstaff on 01/18/02***

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

Attachment

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



January 3, 2000

ALL-COUNTY LETTER NO. 00-08

TO: ALL COUNTY WELFARE DIRECTORS
 ALL COUNTY WELFARE-TO-WORK
 COORDINATORS
 ALL COUNTY CalWORKs PROGRAM
 SPECIALISTS
 ALL COUNTY APPEAL SUPERVISORS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: CALIFORNIA WORK OPPORTUNITY
 AND RESPONSIBILITY TO KIDS (CalWORKs) PROGRAM COUNTY
 POLICIES AND PROCEDURES

REFERENCE: ALL COUNTY LETTER (ACL) 98-58
 ALL COUNTY INFORMATION NOTICE (ACIN) I-32-99
 ACIN NO. I-70-99

The purpose of this All County Letter (ACL) is to remind counties that they must develop written policies and procedures for those sections of the CalWORKs program in which they have operational discretion. Initial instructions regarding county responsibility to develop written standards were provided in ACL 98-58, dated July 31, 1998 (see Attachment I). This ACL again transmits information and guidance on the development and documentation of policies and procedures, because of recent allegations by several welfare advocates that some counties do not have the necessary CalWORKs policies and procedures in writing, as required. The lack of established policies can also affect the outcome of State Administrative Hearings.

State law and regulations provide counties with increased flexibility to design their CalWORKs programs to meet the needs of their clientele, taking into consideration available local resources and labor market conditions. However, the increased flexibility allowed under CalWORKs also requires that counties assume greater responsibility for the development of standards and criteria. Specifically, Manual of Policies and Procedures (MPP) Section 11-501.3 requires that, for those areas of the CalWORKs program in which counties have discretion to adopt specific standards that affect a client's eligibility, grant amount, and welfare-to-work activities, including supportive services, policies and procedures must be in writing and be made available to the public upon request (see Attachment II). These county-developed standards also must be in compliance with translation requirements, pursuant to MPP Section 21-115.

In addition to being legally required, written policies and procedures will ensure that both county staff, applicants for and recipients of aid, and other interested parties have knowledge of applicable program rules; promote uniform and equitable treatment of clients; assist in demonstrating that county actions are not arbitrary and capricious; and serve to support county actions in State hearings. To be effective, these policies and procedures must contain sufficient details so that the county's criteria related to program requirements and participation can be clearly understood.

To assist counties in developing CalWORKs policies and procedures, we have listed areas and appropriate sections of the CalWORKs regulations in which counties have the authority and responsibility to adopt written policies and procedures. These areas include, but are not limited to, the following:

- Determining good cause for not attending school regularly and for failure to cooperate (MPP Section 40-105(f)).
- Verifying regular school attendance (MPP Section 40-105.5).
- Establishing procedures for informing recipients of the 60-month time limit requirements and the procedures for recipients to claim time limit exemptions from the 60-month time limit (MPP Section 40-107.14).
- Certifying when there is no job currently available for the recipient (MPP Section 42-710.1). These criteria must include what are considered to be appropriate positions for a recipient and identification of the necessary steps that recipients must take to apply for these positions (MPP Section 42-710.5).
- Extending the 18-month time limit for up to six months for a parent or caretaker relative whose beginning date of aid is after the implementation date of the WTW Program in the county (MPP Section 42-710.12).
- Determining when recipients who have received aid for a cumulative period of 18 or 24 months, and have had a break in aid of at least one month, must participate in community service or may participate in WTW activities (MPP Section 42-710.31).
- Making a determination that the recipient's performance during job search indicates that extending the job search period is likely to result in unsubsidized employment (MPP Section 42-711.534).
- Establishing satisfactory progress for purposes of allowing a recipient to continue in an undergraduate degree or certificate program that leads to employment (MPP Section 42-711.541(b)).

- Making the determination that a program leads to employment, for recipients whose program is not on the list of approved SIPs (MPP Section 42-711.543(b)(1)).
- Referring a participant for an evaluation and determination of any treatment needs when it is believed that the mental health or substance abuse problems will impair the ability of the participant to obtain and retain employment (MPP Sections 42-711.56 and 42-711.57).
- Establishing that satisfactory progress in an assigned activity has been maintained (MPP Section 42-711.635).
- Determining whether extenuating circumstances exist, for purposes of a reappraisal (MPP Section 42-711.71).
- Determining satisfactory participation in an assigned education or training activity. These criteria must include regular attendance and satisfactory progress in the assigned activity (MPP Section 42-711.81; also see MPP Section 42-711.635).
- Determining what conditions, in addition to those in regulations, may be considered good cause for not participating in welfare-to-work activities (MPP Section 42-713.2).
- Determining what child care is commonly available in the community and what distance is customarily traveled by working families in accessing child care services in the community (MPP Sections 42-713.25 and 42-713.253).
- Determining when program requirements would be waived for a recipient who has been identified as a past or present victim of domestic abuse when it has been determined that good cause exists (MPP Section 42-715.51).
- Determining when an ancillary expense is necessary for the individual to participate in WTW activities (MPP Section 42-750.113).
- Determining eligibility for lump sum diversion services (MPP Section 81-215.3).
- Repayment procedures for diversion benefits for recipients that reapply and are eligible within the diversion period (MPP Section 81-215.51).

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If you have any questions regarding this letter or if we can be of any assistance, please contact, as appropriate, staff of the CalWORKs Eligibility Bureau at (916) 654-1322, Employment Bureau at (916) 654-2137, Child Care Programs Bureau at 657-2144, or Work Support Services Program at (916) 654-1424.

Sincerely,

***Original Document Signed By
Bruce Wagstaff on 1/3/00***

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

Attachments

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



July 31, 1998

ALL-COUNTY LETTER NO. 98-58

TO: ALL COUNTY WELFARE DIRECTORS
 ALL COUNTY WELFARE-TO-WORK
 COORDINATORS
 ALL COUNTY CalWORKs PROGRAM
 SPECIALISTS
 ALL COUNTY APPEAL SUPERVISORS

REASON FOR THIS TRANSMITTAL

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | State Law Change |
| <input type="checkbox"/> | Federal Law or Regulation Change |
| <input type="checkbox"/> | Court Order |
| <input type="checkbox"/> | Clarification Requested by One or More Counties |
| <input checked="" type="checkbox"/> | Initiated by CDSS |

SUBJECT: COUNTY POLICIES AND PROCEDURES

This letter is to transmit information and guidance regarding county responsibility for developing and documenting county policies and procedures and presenting them at state hearings.

County Policy Development

CalWORKs legislation (AB 1542 Chapter 270, Statutes of 1997) provides counties with increased flexibility to design and implement welfare-to-work programs that are best suited to the needs of the clientele being served, the resources available, and local labor market conditions. AB 1542 and CalWORKs regulations issued by the California Department of Social Services (CDSS) provide counties with a number of options for designing their welfare-to-work programs and developing standards and criteria to determine issues such as:

- Eligibility for lump sum diversion services and repayment procedures for diversion benefits;
- The range of welfare-to-work activities that will be offered by the county welfare department (CWD);
- The hours of work participation required of the adult in a one parent family;
- Exemption from work participation requirements based on providing care to a child under six months of age (may be reduced to 12 weeks of age or increased to 12 months of age); and
- Verification standards for regular school attendance.

In some areas, CDSS has not adopted detailed regulations. The increased program flexibility allowed under CalWORKs requires that the counties take a greater responsibility for the development of standards and criteria that will be used to determine the benefits and services that individuals will receive. In order to assure uniform treatment within the county, we strongly recommend the development of written county policies and procedures. Written policies and procedures will ensure that both county staff and applicants for and recipients of aid have knowledge of applicable program rules. The county also will have evidence of its policies and procedures to present at state hearings.

County Responsibilities at State Hearings:

Administrative Law Judges (ALJ) are granted authority under Welfare and Institutions Code Section 10950 to review any county action relating to an applicant's application for or recipient's receipt of public social services. This includes actions taken by the county in regard to welfare-to-work participation by CalWORKs recipients. At hearing, the ALJ will review the "facts" of the case that are in dispute and also determine if the county's action is consistent with applicable statutes, regulations, CDSS policy guidelines, and/or county policies. Therefore, in developing any local policies, counties must ensure that local policies, criteria, and procedures are consistent with existing statutes, regulations, and CDSS guidelines transmitted via All County Letter (ACL), All County Information Notice (ACIN), or any similar instrument. Additionally, counties should take appropriate steps to ensure that local policies and procedures are documented, communicated to staff, and applied in a uniform manner.

When presenting the county's position at a hearing, county staff should explain how and why its policies, criteria, and/or procedures were applied in the particular case. To demonstrate that the county's decisions are not, nor appear to be, arbitrary and capricious, the county should do the following:

- Cite the appropriate state rule (statute, regulation, ACL, or ACIN) that gives the county the authority to adopt and implement its own policies, criteria, or procedures.
- Explain how and why the county's policies, criteria, and/or procedures were applied in the particular case to be heard; and
- Provide documentation of the relevant policies, criteria, and/or procedures to the ALJ. Relevant documentation may include, but is not limited to the specific written sections of the certified county plan, the county policies, the county training manuals that support the county action in the individual case, or any other documentation deemed relevant by the ALJ. For example, the county should introduce the following evidence in a case when the issue is the length of the exemption for care of an infant.

- Cite the appropriate state rule granting authority to the county to make its own determination regarding length of exemption for care of an infant.
- Cite and attach appropriate pages from the county plan that speaks to criteria for reducing or increasing the exemption period, on a case-by-case basis.
- Cite and attach the specific written policies and procedures that the county is following to support the reduced exemption.
- Explain how county policies or procedures apply to the claimant's specific facts.

Should a county not have any specific written policies or procedures entered as evidence in the hearing, the ALJ must reach a decision by applying the facts of the case to the relevant statute or regulation, without regard to county policy.

If you have any questions regarding the development of county policies and procedures, please contact Charr Lee Metsker, Chief, Employment and Eligibility Branch, at (916) 657-2128. In regard to questions on state hearings, please contact Laurence H. Geller, Presiding Administrative Law Judge, Quality Improvement and Disability Hearings Bureau, at (916) 229-4064.

Sincerely,

***Original Document Signed By
Bruce Wagstaff on 7/31/98***

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

***Original Document Signed By
John Castello on 7/31/98***

JOHN CASTELLO
Chief, Administrative Law Judge
State Hearings Division