

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



February 25, 2002

ALL-COUNTY LETTER NO. 02-20

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

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: INSTRUCTIONS ON REMEDIES RELATED TO IMPROPER COUNTY
POLICIES REGARDING CALIFORNIA WORK OPPORTUNITY AND
RESPONSIBILITY TO KIDS (CalWORKs) WELFARE-TO-WORK (WTW)
PROGRAM ASSIGNMENTS

REFERENCE: ALL-COUNTY LETTER (ACL) 02-03
ASSEMBLY BILL 1542 (Chapter 270, Statutes of 1997)

BACKGROUND

This letter is a follow-up to ACL 02-03, which identified several CalWORKs policies in county WTW programs that are inconsistent with State statute and regulations and provided clarification on the appropriate application of relevant CalWORKs regulations. The purpose of this ACL is to instruct counties about providing retroactive relief, in the form of additional training time and/or restored cash aid, to WTW participants who were affected by the policies that were noted in ACL 02-03.

POTENTIAL CLAIMANTS AND FILING PERIOD

Recipients who participated in the WTW Program at any time since January 1, 1998, may be eligible for reimbursement of cash aid and/or training time if they were negatively impacted by any of the WTW post assessment policies that are referenced above. All requests for case reviews must be filed on, or before, July 1, 2002. Counties must respond to all individuals who submit a copy of the enclosed TEMP 2200, CalWORKs Welfare-to-Work Activities Review Request Form. However, counties are not obligated to provide additional time, or reimburse cash aid, if it can be shown that the individual was not harmed, or affected, by any of the five policies that are mentioned under the Review Process section.

INFORMING NOTICE/REVIEW REQUEST FORM

The enclosed notice, TEMP 2200, Important Notice for CalWORKs Recipients, will be distributed to current CalWORKs recipients, via the Medi-Cal mass mailing process, on or about May 1, 2002. This notice informs recipients about how to request a review of their case file if they believe that their county's policies resulted in either an inappropriate WTW assignment and/or sanction for refusing to participate in a WTW activity that was not based on an individualized assessment. Additionally, the notice includes instructions to recipients for completing the TEMP 2200, CalWORKs Welfare-to-Work Activities Review Request Form (on the backside of the informing notice) and submitting it to their County Welfare Department (CWD).

Counties must have TEMP 2200, CalWORKs Welfare-to-Work Activities Review Request Forms available for individuals when they call or go into a CalWORKs office (whether operated by the CWD or contracted provider) to request the form. The CWD and recipients also can obtain copies of this form from the CDSS website at <http://www.dss.cahwnet.gov>.

REVIEW PROCESS

Upon receipt of a completed TEMP 2200, CalWORKs Welfare-to-Work Activities Review Request Form, counties must review the participant's file and, as necessary, take corrective measures to remedy any misapplication of the CalWORKs WTW program regulations stemming from any of the policies mentioned below. Specifically, in reviewing cases, counties must identify and correct any inappropriate WTW activity assignments and/or county actions that were based on the following policies, rather than on an individualized assessment.

Since January 1, 1998:

- Limiting participation in non-self-initiated educational programs (non-SIPs), including General Education Degree (GED), Adult Basic Education (ABE), English-as-a Second Language (ESL), and vocational education programs, to an across-the-board timeframe shorter than the WTW period of 18- or 24-months.
- Limiting participation in education programs needed for employment to only CalWORKs WTW participants who lack a high school diploma or GED.
- Limiting participation in education and training programs needed for employment to only CalWORKs WTW participants who already are employed.
- Imposing an across-the-board mandatory WTW participation requirement after assessment (e.g., 13 weeks of work experience [WEX]).
- Not automatically referring participants who disagreed with their CalWORKs assessment to a third party assessment.

There is no basis in the CalWORKs statutes or regulations that allows the establishment of any of the above policies. Participation in, and assignment to, WTW activities must always be based on an individualized assessment.

REMEDIAL ACTIONS

The following remedial actions must be taken to correct problems and restore benefits to eligible participants. More than one remedial action may be appropriate to correct multiple problems for an individual participant.

- Reviewing and correcting WTW plans

Counties must carefully review the participant's case file and WTW plan to determine whether WTW assignments were based on an individualized WTW assessment that took into account his/her work history, employment skills, knowledge, and abilities.

If the county determines that the WTW plan is incorrect and/or participant referral(s) were based on improper across-the-board WTW post-assessment policies, the county must work with the individual to develop an amended WTW plan that addresses the participant's educational and training needs, in accordance with his/her individualized WTW assessment.

- Referring participants to third party assessments

Counties must determine whether the case file contains a record of, or the county has knowledge of, the participant informing the county that he/she disagreed with the results of his/her WTW assessment.

If the county determines that the participant informed it of his/her disagreement with the WTW assessment, and the participant was referred to a third party assessment, the county can deny the request for review, if the third party assessment was the sole reason listed for the review. Additionally, if the case file shows that the participant informed the county of his/her disagreement, and the matter was resolved to the participant's satisfaction through a county supervisory review or other established problem resolution process, the request for review can be denied. However, if the participant's expressed disagreement was not resolved to his/her satisfaction through a county informal process, and he/she was not referred to a third party assessment, then the county must refer the participant to an independent third party assessment. Counties may not offer an informal resolution process to the participant in lieu of the third party assessment, nor can counties require clients to participate in the informal process prior to the third party assessment.

The third party assessor is responsible for examining and determining if the result(s) of the WTW assessment that occurred after January 1, 1998 was based on the client's

circumstances and needs at the time of the assessment. If the third party assessor agrees with the county's WTW assessment, the county can deny the participant's request for review. If the third party assessor disagrees with the results of the county's WTW assessment, then the county is bound by the results of the third party assessment, which shall be used to develop an appropriate WTW plan for the participant. If a new plan must be developed:

- Time spent in the inappropriate activities will not count against the 18- or 24-month time clock; and
 - The participant's 18- and/or 24-month clock will be adjusted to allow participation in the activities in the amended WTW plan, as noted below in the "Extending or adding additional training time."
- Extending or adding additional training time
 - If a participant was referred to WTW activities based on any of the county policies or procedures identified in this letter, rather than being sent to activities that were identified by an individualized assessment as being more appropriate for the participant and available, and the time spent in these activities was counted against his/her 18- or 24-month time clock, the participant will be entitled to receive an adjustment to his/her 18- or 24-month time clock, to allow for additional time to participate in the proper training activity(ies).
 - If the participant is presently off aid, for any reason, and has time remaining on his/her CalWORKs 60-month clock, the county shall review the participant's WTW assessment and WTW plan to determine if the he/she was affected by any of the inappropriate county policies during the time of his/her participation in the WTW program. If it is determined that the participant was negatively impacted, the county must adjust his/her 18- or 24-month clock to allow for additional training time, if the participant returns to aid.
 - If the participant is employed and still on aid, has time left on his/her CalWORKs 60-month time clock and was impacted by any of the county policies, he/she must remain employed, unless good cause exists to terminate employment or reduce the earnings, but will be entitled to an adjustment of his/her 18- or 24-month clock.

When an adjustment to an individual's 18- or 24-month time clock is necessary, the additional time that is granted cannot extend beyond the time remaining on the individual's CalWORKs 60-month time clock.

- Ending sanctions and restoring aid

Counties must rescind any sanctions for an individual's failure to participate in a WTW

assignment that resulted from any of the identified policies on Page Two of this ACL, for any month in which the individual was otherwise eligible for the receipt of cash aid. For example, a recipient sanctioned for refusing to sign a welfare-to-work plan that was based on improper county limits on education or training is eligible for relief. Cash aid must be restored from the effective date of the sanction, but no earlier than January 1, 1998, if the individual was otherwise eligible for aid during the sanction period and chooses restoration of cash aid. No interest is to be paid on retroactive cash aid.

An individual must be given the choice of receiving retroactive cash aid payments for the months that he/she was improperly sanctioned, or of prospectively resuming receipt of cash aid and welfare-to-work services, effective the date on which it is determined that the individual should no longer be sanctioned. If the individual chooses to receive aid for the rescinded sanction period, all months in that period will be counted against the CalWORKs and Temporary Assistance to Needy Families (TANF) 60-month time limits, but not against the 18- or 24-month time clock. (Exception: These months also do not count against the TANF 60-month time limit for a two-parent AU, which is State-only funded.) If the individual chooses not to receive back payments, the months of sanction do not count toward the individual's CalWORKs and TANF 60-month time limits.

Under either option above, the sanction must not count as a "prior instance of noncompliance" should the individual fail to comply in the future.

- Reimbursing out-of pocket expenses for supportive services

Out-of-pocket expenses for supportive services must be reimbursed from the effective date of the sanction, if the individual was otherwise eligible for supportive services during the sanction period and he/she continued a program that should have been a part of his/her WTW plan. (Example: If a participant was sanctioned for refusing to sign a WTW plan that was based on an improper 12-month limit, but continued the education or training program while sanctioned and can substantiate that he/she paid transportation and/or ancillary expenses, the county must reimburse the participant for any allowable expenses.) No interest is to be paid on retroactive supportive services benefits.

Supportive services must be verified, when possible, to be an allowable reimbursement. When receipts or other documentation are not available, a declaration signed by the recipient under penalty of perjury shall be acceptable, if the CWD has no information to the contrary.

- Correcting current cash aid

At the time the county determines that a sanction is inappropriate and should be rescinded, the county must adjust the assistance unit's (AU) cash aid to include the individual that was sanctioned and issue any retroactive benefits, if requested by the individual. No interest is to be paid on retroactive cash aid.

TIMEFRAMES FOR PROCESSING CLAIMS

From the date of receipt of the TEMP 2200, CalWORKs Welfare-to-Work Activities Review Request Form, the county has 30 working days to review the participant's request form for completeness and, if necessary, to notify the participant to provide missing information or verification needed to process the request form. The county must allow the participant to have 45 calendar days, from the date of its notice, to provide the additional information.

When the county determines that the form is complete, it has 30 working days from that determination, to make an appointment with the participant to discuss appropriate WTW activities and to amend his/her WTW plan, accordingly. When the WTW plan is amended the county has no more than 30 working days to refer the participant to the appropriate WTW activity.

If the county receives a request form from a participant who previously participated in WTW activities in another county, and was negatively impacted by the other county's policies, the county initially receiving the request form, has 10 working days to forward the request form to the appropriate county. The second county must process the request form within the same timeframes, as outlined above. A request for a review shall be considered valid if the TEMP 2200, CalWORKs Welfare-to-Work Activities Review Request Form, was received by the initial county by July 1, 2002.

If the county determines that the participant should be referred to a third party assessment, the county shall make an appointment with the participant and the third party assessor, as soon as possible, but no later than 30 working days from the time that the county determines that the request form is complete, unless the volume of referrals exceeds the service capacity of the third party assessors, in which case, the appointment shall be made as soon as possible, but no later than 60 days. Upon receipt of the third party assessor's determination, the county will have 30 working days to notify the participant of the results of the third party assessment and adjust the WTW plan, if necessary.

When the county makes the determination to restore aid for an individual who was improperly sanctioned, it must recompute the AU's grant amount and mail the retroactive payment to the client within 20 working days of the county's determination of the client's eligibility.

CalWORKs WTW ACTIVITIES REVIEW REQUEST NOTICES OF ACTION (NOA)

The appropriate Notices of Action for denying or approving modifications to an individual's 18- or 24-month clock, cash aid, and supportive services will be sent to counties in a separate ACL.

TRANSLATIONS

To obtain camera-ready copies of English and Spanish notices, once they become available, call the Forms Management Unit (FMU) at (916) 657-1907 or CALNET at 437-1907. If your office has Internet access, you may obtain the notices from the CDSS web page at <http://www.dss.cahwnet.gov>. If you do not have Internet access, you may obtain copies by contacting the FMU.

If your county is on the Language Translation Services (LTS) mailing list, your Forms Coordinator now receives all translations when they become available. Translated notices in Russian, Chinese, Vietnamese, and Spanish will be sent to your county, as soon as possible, after they are completed by the Department. Call LTS at (916) 654-1282, if your county does not receive the translations. If there are participants residing in your county who speak a language other than English, and who comprise five percent or more of the county population, the county must ensure that a written translation of forms and notices are provided (if written language exists for this population). Counties are reminded that they must comply with Division 21 of the Manual of Policies and Procedures (MPP) regarding the provision of effective bilingual services.

UNDERPAYMENTS/OVERPAYMENTS

Before issuing any retroactive underpayment, counties must review the case to confirm that there are no existing overpayment(s). Retroactive benefits must be offset against any outstanding underpayments/overpayments, in accordance with MPP Section 44- 340.42, which states "If an assistance unit has both an underpayment and an overpayment, the county shall balance one against the other before making a retroactive corrective payment."

Retroactive payments shall not be considered when determining income eligibility and family fees for current child care services.

CalWORKs ELIGIBILITY

For the purposes of determining continued eligibility and the amount of cash assistance, retroactive aid payments are not to be considered as income, or as a resource, in the month paid or in the next month, pursuant to MPP Section 44-340.6.

FOOD STAMPS

Payments received for prior months will be counted as a non-recurring lump sum in the month received for Food Stamp (FS) program purposes, per MPP Section 63-502.2(j). Payments received in the month the payment was intended to cover will be counted as current income. For any payment(s) that combined both current and prior month(s) benefits, the amount allocated to the prior month shall count as a resource, and only the amount attributable to the current month shall be countable as current income for the FS program.

FISCAL CLAIMING

Corrective underpayments and ongoing benefits are eligible for CalWORKs funding. Normal claiming procedures apply for these payments. No interest will be paid on retroactive benefits.

If you have any questions related to the CalWORKs WTW Program, please call Ellen Horton, Employment Bureau, at (916) 651-6567. If you have any questions regarding CalWORKs cash grant eligibility, please contact your CalWORKs Eligibility Bureau Analyst, at (916) 654-1322. For questions related to the Food Stamp Program or fiscal claiming, you may contact your Food Stamps Bureau Analyst, at (916) 654-1896 or your Fiscal Policy Bureau Analyst, at (916) 657-3440, respectively.

Sincerely,

***Original Document Signed By
Bruce Wagstaff on 02/25/02***

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

Enclosures

c: CWDA
CSAC

IMPORTANT NOTICE FOR CalWORKs RECIPIENTS

- 1) If you were a participant in the CalWORKs Welfare-to-Work program anytime between January 1, 1998 and now, **and**
- 2) You did **not** participate only in a school program that you enrolled in on your own (a SIP) when you were required to participate in the CalWORKs Welfare-to-Work program, **and**
- 3) One or more of the following situations happened to you,
 - You may be able to get more training time and/or some cash assistance back.
 - The county did not let you go to an educational and/or training program for your entire welfare-to-work period of 18 or 24 months because the county had a rule that limited everyone to a shorter time than 18 or 24 months.
 - The county would not send you to an educational or training program because you were not working at least part-time.
 - The county would not send you to an educational program because you already had a high school diploma or General Equivalency Diploma (GED).
 - The county required you to attend work experience as your first assignment after signing your welfare-to-work plan, because it said that all CalWORKs participants had to go to that activity.
 - The county did not refer you to a third party assessment after you told the county that you did not agree with the CalWORKs welfare-to-work assessment.

If you are an eligible CalWORKs, welfare-to-work participant and one or more of the situations mentioned above happened to you, and you want the County Welfare Department to review your case to see if you may get more training time and/or some cash aid back, you must fill out the CalWORKs Welfare-to-Work Activities Review Request Form.

The form is printed on the other side of this Notice. Complete the form and return it to the worker or office that gave you your welfare-to-work assignment, by no later than July 1, 2002.

Cambodian:

Chinese:

Russian:

Vietnamese:

បើសិនជាលោកអ្នកមិនចេះអានសំណៅនេះទេ សូមសួររកកិច្ចជួយពីអ្នកកាន់សំណុំរឿងរបស់លោកអ្នក ។

假如你不能閱讀這份表格，可以向你的工作人員要求幫助。

Если вы не можете прочесть эту форму, обратитесь к работнику, ведущему ваше дело.

Nếu quý vị không thể đọc được mẫu này, xin hỏi nhân viên phụ trách hồ sơ của quý vị để nhờ giúp đỡ.

AVISO IMPORTANTE PARA LOS BENEFICIARIOS DE CalWORKs

- 1) Si usted fue un participante en el Programa para la Transición de la Asistencia Pública al Trabajo (*Welfare to Work* - WtW) del Programa de California de Oportunidades de Trabajo y Responsabilidad hacia los Niños (CalWORKs) en algún momento desde el 1º de enero de 1998 hasta ahora, **y**
- 2) **No** participó solamente en un programa escolar en el cual se inscribió por iniciativa propia (SIP) cuando tenía que participar en un programa de WtW de CalWORKs, **y**
- 3) Estuvo en una o más de las siguientes situaciones,
 - Es posible que pueda recibir más tiempo para entrenamiento y/o asistencia monetaria retroactiva.
 - El Condado no le permitió participar en un programa educacional y/o de entrenamiento durante su período completo de WtW de 18 o 24 meses debido a que el Condado tenía una regla que limitaba a todos a un plazo menor de 18 o 24 meses.
 - El Condado no le envió a un programa educacional o de entrenamiento debido a que no estaba trabajando por lo menos tiempo parcial.
 - El Condado no le envió a un programa educacional debido a que usted ya tenía un diploma de secundaria (*high school*) o un certificado equivalente a graduación de la secundaria (GED).
 - El Condado hizo que su primera asignación después de firmar su plan de WtW fuera participar en una actividad de trabajo para adquirir experiencia porque le dijo que todos los participantes de CalWORKs tenían que ir a esa actividad.
 - El Condado no le envió a una evaluación por una persona independiente después que usted le dijo al Condado que no estaba de acuerdo con la evaluación de WtW de CalWORKs.

Si usted es un participante elegible para WtW de CalWORKs y estuvo en una o más de las situaciones mencionadas anteriormente y quiere que el departamento de bienestar público del Condado revise su caso para ver si puede recibir más tiempo para entrenamiento y/o alguna asistencia monetaria retroactiva, tiene que llenar el formulario de petición para una revisión de las actividades de WtW de CalWORKs.

El formulario está impreso al otro lado de este aviso. Complete el formulario y devuélvalo al trabajador o a la oficina que le dio su asignación de WtW a más tardar el 1º de julio de 2002.

CalWORKs WELFARE-TO-WORK ACTIVITIES REVIEW REQUEST FORM

INSTRUCTIONS: *Only complete this form if you were a participant in the CalWORKs Welfare-to-Work program anytime between January 1, 1998 and now. Do not complete this form if you were only in a school program that you enrolled in on your own (a SIP) when you were required to participate in the CalWORKs Welfare-to-Work program.*

For CalWORKs Welfare-to-Work program participants, except those who only participated in a SIP, please answer the questions below. If you answered "no" to all of the questions below, **do not** submit this form. If you answer "yes" to any of the questions below, you may be able to get more training time and/or some cash aid back. To have the county review your case, fill out this form and send or bring it to the worker or office that gave you your CalWORKs welfare-to-work assignment, no later than July 1, 2002. If this form is not submitted to the county by July 1, 2002, your request will be denied. If the county denies your request, it will send you a notice telling you why the request was denied and how you can ask for a State hearing. Please print or type your answers.

NAME		DATE OF BIRTH
ADDRESS		
SOCIAL SECURITY NUMBER	CASE NUMBER	TELEPHONE NUMBER ()

Since January 1, 1998:

- ☐ YES ☐ NO Did you go to an educational and/or training program for less than your entire welfare-to-work period of 18 or 24 months because the county had a rule that limited everyone to a shorter time than 18 or 24 months in those activities? If yes, in what county(ies)? _____
- ☐ YES ☐ NO Did you need to go to an educational or training program to be employable and the county said you could not go because you were not working at least part-time? If yes, in what county(ies)? _____
- ☐ YES ☐ NO Did you need to go to an educational program to be employable and the county said you could not go because you already had a high school diploma or GED? If yes, in what county(ies)? _____
- ☐ YES ☐ NO Did the county send you to work experience program as your first activity after signing your welfare-to-work plan because it said all participants had to go to that activity? If yes, in what county(ies)? _____
- ☐ YES ☐ NO Did you get sanctioned for not participating because you disagreed with one or more of the four county actions mentioned above? If yes, why were you sanctioned and in what county(ies)? _____
- ☐ YES ☐ NO Did the county fail to refer you to a third party assessment after you told the county that you did not agree with the county's welfare-to-work assessment? If yes, what county(ies)? _____

SIGNATURE OF PERSON MAKING CLAIM:	DATE SIGNED
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PETICION PARA UNA REVISION DE LAS ACTIVIDADES RELACIONADAS A WELFARE-to-WORK de CalWORKs

INSTRUCCIONES: *Solamente complete este formulario si fue un participante en un programa de WtW de CalWORKs en algún momento desde el 1º de enero de 1998 hasta ahora. No complete este formulario si solamente estuvo en un programa escolar en el cual se inscribió por iniciativa propia (SIP) cuando se requirió que participara en un programa de WtW de CalWORKs.*

Para los participantes de WtW de CalWORKs, excepto aquellos que participaron en un SIP, por favor contesten las siguientes preguntas. Si contesta "NO" a todas las preguntas que aparecen a continuación, no presente este formulario. Si contesta "SI" a alguna de las siguientes preguntas, es posible que pueda recibir más tiempo para entrenamiento y/o alguna asistencia monetaria retroactiva. Para que el Condado revise su caso, complete este formulario y envíelo o llévelo al trabajador u oficina que le dio su asignación de WtW de CalWORKs a más tardar el 1 de julio de 2002. Si este formulario no se entrega a más tardar el 1 de julio de 2002, se negará su petición. Si el Condado niega su petición, se le enviará a usted una notificación diciéndole porqué fue negada y cómo puede solicitar una audiencia con el estado. **Por favor escriba sus respuestas con letra de molde o a máquina.**

NOMBRE		FECHA DE NACIMIENTO
DIRECCION		
NUMERO DE SEGURO SOCIAL	NUMERO DEL CASO	NUMERO DE TELEFONO ()

Desde el 1º de enero de 1998:

- ☐ SI ☐ NO ¿Participó en un programa educacional y/o de entrenamiento menos que su período completo de WtW de 18 o 24 meses debido a que el Condado tenía una regla que limitaba a todos a un plazo menor de 18 o 24 meses en esas actividades? Si la respuesta es "SI", en qué Condado(s) _____
- ☐ SI ☐ NO ¿Necesitaba participar en un programa educacional o de entrenamiento para poder obtener un empleo y el Condado le dijo que no podía ir debido a que no estaba trabajando al menos por tiempo parcial? Si la respuesta es "SI", en qué Condado(s) _____
- ☐ SI ☐ NO ¿Necesitaba participar en un programa educacional para poder obtener un empleo y el Condado le dijo que no podía debido a que ya tenía un diploma de secundaria o un GED? Si la respuesta es "SI", en qué Condado(s) _____
- ☐ SI ☐ NO ¿El Condado hizo que su primera asignación después de firmar su plan de WtW fuera participar en una actividad de trabajo para adquirir experiencia y le dijo que todos los participantes de CalWORKs tenían que ir a esa actividad? Si la respuesta es "SI", en qué Condado(s) _____
- ☐ SI ☐ NO ¿Recibió una sanción por no participar debido a que usted no estaba de acuerdo con una o más de las cuatro acciones del Condado mencionadas anteriormente? Si la respuesta es "SI", por qué fue sancionado y en qué Condado(s) _____
- ☐ SI ☐ NO ¿El Condado no le envió a una evaluación por una persona independiente después que usted le dijo al Condado que no estaba de acuerdo con la evaluación de WtW? Si la respuesta es "SI", en qué Condado(s) _____

FIRMA DE LA PERSONA QUE HACE EL RECLAMO	FECHA EN QUE FIRMO
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