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July 2, 2010

COUNTY FISCAL LETTER (CFL) NO. 09/10-67

TO: COUNTY WELFARE DIRECTORS
COUNTY FISCAL OFFICERS
COUNTY AUDITOR CONTROLLERS
COUNTY PROBATION OFFICERS

SUBJECT: CLARIFYING QUESTIONS AND ANSWERS FOR THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUND (ECF)

REFERENCES: CFL No. 09/10-61, CFL No. 09/10-61E, 45 CODE OF FEDERAL REGULATIONS 263.0(b)

The purpose of this letter is to transmit answers to questions the California Department of Social Services (CDSS) received from counties regarding TANF ECF claiming policies for subsidized employment and non-recurrent short-term benefits. The attached questions and answers (Q&A) are based on county Q&A sessions that have occurred since April 22, 2010. The CDSS continues to work on resolving any questions pending a response and/or clarification and will ensure those answers are transmitted to counties when received.

If you have any questions regarding this letter, please direct them to fiscal.systems@dss.ca.gov.

Sincerely,

Original Document Signed By:

FRAN MUELLER
Deputy Director
Administration Division

Attachment

QUESTIONS AND ANSWERS ON THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUND (ECF) SUBSIDIZED EMPLOYMENT (SE) AND NON-RECURRENT SHORT-TERM BENEFITS (NSTB)

SUBSIDIZED EMPLOYMENT

Q1: What constitutes payroll taxes (including unemployment benefit insurance and worker's compensation insurance) and what can be paid through ECF? Is there a specific match requirement for paying for payroll taxes? How do counties claim payroll taxes?

A1: For information regarding the definition of state and federal payroll taxes, please visit www.edd.ca.gov/Payroll_Taxes/What_Are_State_Payroll_Taxes.htm and http://www.treas.gov/education/fact-sheets/taxes/economics.shtml.

Payroll taxes assessed on the supervisor's wages can be counted as part of actual in-kind third party supervision and training costs. In-kind third party supervision and training costs can count toward the 20 percent requirement. Payroll taxes assessed on the subsidized employee's wages can only be counted if those costs are reimbursed by either the county or TANF ECF and can be claimed to the Program Identifier Number (PIN) codes ending in 098 for wage subsidies, listed in County Fiscal Letter (CFL) No. 09/10-32. The three-digit program code is dependent on the funding source being utilized. If an employer is reimbursed for the payroll taxes assessed on the subsidized employee's wages through TANF ECF, then they would count as part of the 80 percent reimbursed with ECF dollars. If the county reimbursed the employer for payroll taxes assessed on the subsidized employee's wages with county funds, single allocation, or fraud incentives, then that reimbursement may be counted as part of the 20 percent and would be claimed under the code that applies to that funding source. Payroll taxes assessed on the subsidized employee's wages that are not reimbursed to the employer cannot count toward the total program cost and would not be claimed to any of the codes in CFL No. 09/10-32.

Q2: In a SE contract, can the contractor be reimbursed 25 percent of wages for supervision and training costs?

A2: The assumption is that supervision and training equals no more than 25 percent of wage costs (subsidized—or "reimbursed"—and employer paid) without additional documentation. The methodology is based on actual wages and excludes benefits; payroll taxes, and etc. (see County Fiscal Information Notice CN-09-1044).

Q3: If a county has adjustments to the base for SE, where do the counties send the information? Will the advance for SE be adjusted to incorporate the changes to the data? For example, the summer teen program did not exist when the county submitted costs for the SE program.

A3: Counties were given opportunities to adjust their June and September 2010 projections for the NSTB and SE program until May 26, 2010. There will also be more opportunities to update expenditure data in the future. Should there be any questions regarding the database, please contact the County Welfare Directors Association (CWDA). For more information on advances, please see answer to Q8, under General Claiming/Advances Information

NON-RECURRENT SHORT-TERM BENEFITS

Q1: Counties have claims pending from contractors for NSTBs. How should counties enter this data into the database? And should these expenditures include county staffing costs as well?

A1: Counties should include the most accurate information available in the California TANF ECF county database at the time it is requested. The total costs, including staffing costs of all ECF NSTB programs should be in both the database and on the claims (the County Assistance Claim [CA800], and the County Expense Claim [CEC]) submitted to the California Department of Social Services (CDSS). For example, the total expenditures for NSTBs in the database for the period of January - March 2010 should match the totals submitted by counties on the CA800 and CEC for January - March 2010.

Counties may reference additional claiming instructions provided in CFL No. 09/10-61, dated April 10, 2010 and CFL No. 09/10-61E, dated April 29, 2010.

Q2: If a county wants to modify the expenditure estimates in the database for NSTBs as they were a little high, is there any way CWDA can open up the database?

A2: Counties were given opportunities to adjust their June and September 2010 projections for the NSTB and SE program until May 26, 2010. There will be other opportunities to update expenditure data in the future. Please contact CWDA with any questions regarding the database.

Q3: What costs should be in the NSTB base? Should Homeless Assistance payments be included?

A3: No, Homeless Assistance payments are an assistance cost that should not be included in any NSTB actual or estimated expenditures. Please see CFL No. 09/10-61, 09/10-61E, and 09/10-64 for more information regarding base expenditure information. Due to recent direction from the Administration for

Children and Families (ACF), counties are being asked to update the NSTB base information into the California TANF ECF county database by June 15, 2010.

Q4: Will there be any changes immediately for advances for the summer nutrition programs? Will there be a mechanism to adjust NSTB calculations to adjust for advances?

A4: The CWDA advised counties to identify their summer nutrition programs as an NSTB under the Emergency Foods and Vouchers category in the database. Counties will be advanced funds based on expenditures listed for Emergency Foods and Vouchers as a whole and will not receive a separate advancement for the summer nutrition programs. If a county included expenditures in the database for these programs, it will be reflected in the county's advancement. If there were no expenditures reported in the database, the county's advancement will not reflect funds for those programs. Counties will have an opportunity to adjust their June and September 2010 projections in the database at a later date. Also, counties should ensure that the appropriate base expenditures for corresponding quarters are entered into the database.

Q5: If a county has been working on a utility partnership program with Sacramento Municipal Utility District (SMUD), should this program be replaced with the statewide public utility partnership program? Should the county include expenditures for this program on their claim and in the database? Will this program be replaced by the statewide public utility partnership program?

A5: If the County Welfare Departments and SMUD provided these services in Federal Fiscal Year (FFY) 2007 or FFY 2008, these expenditures should be included in the base. If counties and SMUD did not provide these services in FFY 2007 or FFY 2008, there should be no expenditures for the base. Counties may choose to enter into agreements with utility programs separate from the planned statewide contract with Salvation Army.

Q6: A county currently has two agreements in place with local non-profits. Both are currently set up for the contractor to provide the 20 percent in-kind match. Should counties modify the agreements to allow the county to reimburse the non-profits for 100 percent of the costs, and then claim on the CEC to the appropriate ECF claiming codes?

A6: As outlined in CFL No. 09/10-61, counties will report 100 percent of the costs to the appropriate claiming code. However, State Use Only (SUO) codes will be used to shift 20 percent of the costs to the appropriate non-ECF matching fund source within the CEC including third party in-kind contributions. Therefore, counties may not need to modify the agreements.

Q7: Can volunteer hours count for purposes of the 20 percent match for TANF ECF?

A7: Yes, volunteer hours may be counted for purposes of the 20 percent match for TANF ECF. 45 Code of Federal Regulations (CFR) 92.24(c) describes that volunteer services will be valued at rates consistent with those ordinarily paid for similar work in the organization or in the same labor market. It will be incumbent on the organization claiming the costs for these volunteer hours to document their methodology for how they arrived at the amount being claimed, and to provide that documentation upon request. Federal guidance regarding in-kind cost-sharing was also provided in Policy Notice, TANF-ACF-PA-2004-01.

Q8: In a NSTB-Food Distribution contract, is there anything to preclude counties from modifying the agreement to reimburse at a minimum amount of 80 percent and up to 100 percent of the costs of the program? Are there any costs that are allowable as in-kind but not allowable to be actually reimbursed and then claimed by the county to the ECF claiming codes?

A8: As outlined above in Q6, while counties will report 100 percent of the costs to the appropriate claiming code, SUO codes will be used to shift 20 percent of the costs to the appropriate non-ECF fund source to be used as the match, so the county may not change the reimbursement rate for the contract. Also, without knowing the specific costs included in the NSTB-Food Distribution contract, allowable in-kind expenditures are generally allowable for claiming and reimbursement as long as the expenditure is verifiable and meets all applicable requirements in 45 CFR 92.3 and 92.24. However, CDSS is not clear of the intent of this question. If the response provided is not appropriate, please resubmit your question to CDSS or CWDA.

Q9: Can the county change the match rate to 70 percent county funds and 30 percent in-kind?

A9: The county will not be able to change the in-kind match rate. As outlined in CFL No. 09/10-61, counties will report 100 percent of the costs to the appropriate claiming code. However, SUO codes will be used to shift 20 percent of the costs to the appropriate non-ECF fund source within the CEC.

For example, a county has $100.00 above the base expenditures that qualify for ECF funds and the expenditures are for a non-admin contract with a provider. The contractor provides 20 percent ($20.00) in-kind match. To get reimbursed, the county claims the entire $100.00 on the CEC to Program Code (PC) 754, NSTB ECF-County/Documented Public Third-Party Contributions Non-Administration. Once the $100.00 has been claimed, the CEC automatically shifts $20.00, which represents the 20 percent in-kind match to SUO code 756, which is funded 100 percent county only. The remaining $80.00 will be funded with 100 percent federal ECF funds under PC 754.

Q10: How should counties claim costs for computers? Can they be claimed as a start-up cost?

A10: Counties must claim the purchase of computers in accordance with the normal Electronic Data Processing prior approval and claiming policies and procedures. These purchases cannot be claimed as a start-up cost.

GENERAL CLAIMING/ADVANCES INFORMATION

Q1: Can the state please provide a little more clarification on defining Administration versus Non-Administration? If some costs are categorized as Administration and counties put them on the claim, then the costs would draw down more Administration costs. Therefore, counties would have Administration costs drawing down additional Administration costs. In addition, the claim uses social worker time study hours to allocate normal county Administration costs. Will this cause the counties to exceed the 15 percent Administration cap?

A1: Unique to the TANF Program, the federal definition of “Administration” is located at 45 CFR Section 263(b)(2). This section outlines that Administration costs are associated with coordination and oversight of the program and do not involve the provision of program services to recipients (this includes face-to-face contact with clients). Administration includes salary and benefit costs of county staff performing general coordination and oversight activities, eligibility determinations, preparation of program plans, budgets, schedules, and monitoring of programs and projects. It also includes fraud abuse units, procurement activities, public relations, audits accounting, litigation, management of property, payroll, and personnel for county operations and any associated county Administration costs (lease/rent, supplies, utilities, and etc.). It also includes the cost of any contract provided if the county contracts out any of the above county operation activities, including the appropriate share of the contractor’s overhead costs.

This regulation also defines “Non-Administration” to include county staff or contractors who provide benefits and services directly to the clients such as case management, screening and assessments, developing employability plans, work activities, post-employment services, and work supports, and providing diversion benefits and services. The salary and benefits of county staff providing direct services to clients and any associated overhead costs such as lease/rent, supplies, utilities, etc. and the cost of any contract providers if the county contracts out any of the direct service delivery activities, including the appropriate share of the contractor’s overhead costs.

If the county has staff that performs both Administration and Non-Administration activities, then the staff would report their time spent on each type of activity to the appropriate Administration/Non-Administration time study code. The CEC would then automatically allocate the appropriate amount of county overhead to both codes. The same would apply to the contractors. If a contractor will be performing both Administration and Non-Administration activities, they would have to account for their time spent performing each type of activity and then allocate the appropriate amount of their overhead costs to each of the activities. The contractor needs to identify the costs for each category separately on the invoice sent to the county. The county will then report the costs to the appropriate direct cost PIN on the CEC.

An example counties provided was a contract with Manpower, an agency that helps place clients in jobs in the community. Manpower acts as the employer, completes assessments and placement activities and pays the clients for their work. In this example, all of the activities performed by the contractor would be Non-Administration as the contractor is providing an array of program services to the county clients. All of the contractor's costs (salary and benefits of their staff, client salary costs, and overhead costs such as lease/rent, supplies, utilities, etc.) would be claimed as a direct Non-Administration cost under the appropriate PIN on the CEC.

Another example would be where the county contracts with a consultant to have them plan, develop, and provide oversight for contractors who provide job placement services to clients. Because the consultant does not provide direct services to the clients, their total contract costs (salary, benefits of their staff, and related overhead costs (lease/rent, supplies, utilities, etc.) would be claimed as a direct Administration cost under the appropriate PIN on the CEC.

The impact that this will have on the 15 percent administrative cap is still being researched by CDSS. Counties can reference additional claiming instructions provided in CFL No. 09/10-61E.

Q2: What is the difference between county staff performing Administration services versus a contractor's Administration costs?

A2: The only difference is how the overhead costs are claimed on the CEC. Planning and coordination activities that have no face-to-face contact with clients are considered administrative activities and can be performed by either county welfare or contracted staff. If county staff performs these activities, the county would claim their salary and benefit costs to the appropriate Administration time study codes on the CEC. Because county staff are housed in county leased/owned buildings, their time study hours would draw down the appropriate amount of overhead costs (lease/rent, supplies, utilities, etc.) on the CEC.

If a contractor is hired to complete the planning and coordination activities, salary and benefit costs, as well as associated overhead costs (lease/rent, supplies, utilities, etc.), would be considered an Administration cost. The county would claim the total contract expenditures (salary/benefit and overhead) as a direct service cost under the appropriate six-digit PIN on the CEC. The contractor costs would be claimed as direct costs because the contractor staff are not housed in the county leased/owned buildings and therefore, would not draw down any county overhead costs. Counties can reference additional claiming instructions provided in CFL No. 09/10-61E.

Q3: Should contract costs be split between Administration and Non-Administration? If not, then how should contract costs be claimed?

A3: The contract costs should be claimed based on the type of activities being performed. If the contractor is performing activities that are defined as Administration then the total contract costs would be reported as a direct cost to the appropriate Administrative PIN. If the contractor is providing direct service delivery to the clients, the total contract costs would be reported as a direct cost to the appropriate Non-Administrative PIN.

If a contractor will be performing both Administration and Non-Administration activities, they would have to account for their time spent performing each type of activity and then allocate the appropriate amount of their overhead costs to each of the activities. The contractor would then need to identify the costs for each category separately on their invoice sent to the county. The county would then report the costs to the appropriate direct cost PIN on the CEC. Counties can reference additional claiming instructions provided in CFL No. 09/10-61E.

Q4: CFL No. 09/10-61 states advances will be determined based on counties' March quarter expenditure projections. If there were no expenditures because programs were not yet approved, will counties receive an advance?

A4: If the county does not have actual expenditures for the March 2010 quarter, the county will not receive an advance for this quarter.

Q5: If there is no advance, does it mean counties cannot start ECF programs?

A5: Counties may begin ECF programs upon receipt of approvals by CDSS. For more information on advances, please see answer to Q8 below, under General Claiming/Advances Information, page eight.

Q6: Will counties be allowed to submit adjustment claims for the March 2010 and subsequent quarters?

A6: The CDSS will issue a separate CFL regarding retroactive and adjustment claims.

Q7: Can counties claim costs incurred by September 30, 2010, but paid after September 30, 2010?

A7: The ACF clearly states that all costs must be incurred and paid by September 30, 2010. Costs must also be incurred within the same quarter.

For example, if costs were incurred in the September 2010 quarter then they must be claimed in that quarter.

Q8: Can CDSS advance funds from the unspent ECF funds for subsequent quarters?

A8: The CDSS has used the limited unspent ECF funds for advances as follows:

- March 2010 quarter SE, based on prior to audit actual claimed expenditures claimed, counties received June 7, 2010.
- June 2010 quarter SE/NSTB, due to limited ECF funds a portion of the requested advance amount was provided to all counties based on information in the CWDA database as of May 28, 2010. Counties are scheduled to receive the June 2010 quarter advance on June 15, 2010.