
**RECEPTION AND APPLICATION
QUALITY CONTROL COOPERATION REQUIREMENTS**

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- .12 The assistance unit reapplies for aid at least 95 calendar days after the end of the annual review period in which the refusal to cooperate occurred, and has met all eligibility conditions.

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See Section 40-107.3, Eligibility Determination.

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40-209 CAUSE DETERMINATION FOR NONCOOPERATION 40-209

- .1 The recipient may have good cause for failure or refusal to cooperate.
- .2 Good cause, as determined by the county welfare department, includes but is not limited to the following:
 - .21 Illness or incapacity.
 - .22 Court-required appearances or temporary incarceration.
 - .23 Family crisis or other change in circumstances.
 - .24 Other substantial and compelling reasons.

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**ELIGIBILITY AND ASSISTANCE STANDARDS
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**LINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY
DEPRIVATION OF PARENTAL SUPPORT OR CARE**

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CHAPTER 41-400 DEPRIVATION OF PARENTAL SUPPORT OR CARE

41-400 DEPRIVATION OF PARENTAL SUPPORT OR CARE 41-400

Deprivation of parental support or care is a separate and specific eligibility factor for CalWORKs. A child's deprivation is based on the status of his/her natural or adoptive parent or parents. (For AFDC-FC see Division 45.)

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 10063 (Ch. 270, Stats. 1997), Welfare and Institutions Code.

41-401 BASIS OF DEPRIVATION 41-401

- .1 A child is considered deprived of parental support or care if:
 - .11 Either parent is deceased (see Section 41-420);
 - .12 Either parent is physically or mentally incapacitated (see Section 41-430);
 - .13 The principal earner is unemployed (see Section 41-440);
 - .14 Either parent is continually absent from the home in which the child is living (see Section 41-450).
- .2 The recipient family of a child considered to be deprived of parental support or care due to the unemployment of the principal earner may continue to receive assistance, regardless of the number of hours the principal earner parent works, provided the AU meets all other eligibility requirements.
- .3 When the child is deprived of parental support or care for more than one reason, eligibility may be established on any basis of deprivation that appears in Section 41-401.1.

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Interpretation - Regardless of the basis of deprivation upon which the child is determined to be eligible for CalWORKs, the requirements for securing absent parent support remain unmodified.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10063 and 11201 (Ch. 270, Stats. 1997), Welfare and Institutions Code.

41-403 **DEFINITION OF A PARENT** **41-403**

.1 Repealed by Manual Letter No. EAS-91-14, effective 10/1/91.

.2 Preliminary Determination of the Person Presumed to Be the Legal Parent

Determination of the identity of a child's legal father is guided by California Law contained in the Health and Safety Code, Evidence Code and Civil Code. There may be circumstances where the man who claims to be the father is, in fact, not considered the legal father. There may also be circumstances where the mother claims that a man is not the father but he is, in fact, to be considered the legal father. In cases where there is a question as to parentage concerning either parent, the matter should be referred to the District Attorney for resolution. In any case where the child is conceived out of wedlock, and there is no prior determination of paternity, the matter shall be referred to the District Attorney (see Section 43-201.1).

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.21 California Civil Code Section 7010(a) provides the following condition under which a person will conclusively be considered the legal parent of a child:

.211 The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes except for actions brought pursuant to Section 270 of the Penal Code.

.22 The following California Code sections provide the circumstances under which a person is presumed to be the legal parent:

.221 Civil Code Section 7004:

(a) A man is presumed to be the natural father of a child if he meets the conditions as set forth in Section 621 of the Evidence Code or in any of the following subdivisions:

(1) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court.

HANDBOOK CONTINUES

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- (2) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and
 - (i) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce; or;
 - (ii) If the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation.
 - (3) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with the law, although the attempted marriage is or could be declared invalid, and
 - (i) With his consent, he is named as the child's father on the child's birth certificate, or
 - (ii) He is obligated to support the child under a written voluntary promise or by a court order.
 - (4) He receives the child into his home and openly holds out the child as his natural child.
- (b) Except as provided in Section 621 of the Evidence Code, a presumption under this section is a rebuttable presumption affecting the burden of proof and may be rebutted in an appropriate action only by clear and convincing evidence. If two or more presumptions arise under this section which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man.

HANDBOOK CONTINUES

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.222 Evidence Code Section 621:

- (a) Except as provided in subdivision (b), the issue of a wife cohabitating with her husband, who is not impotent or sterile, is conclusively presumed to be a child of the marriage.
- (b) Notwithstanding the provision of subdivision (a), if the court finds that the conclusions of all the experts, as disclosed by the evidence based upon blood tests performed pursuant to Chapter 2 (commencing with Section 890) of Division 7 are that the husband is not the father of the child, the question of paternity of the husband shall be resolved accordingly.

.223 Health and Safety Code Section 10577:

- (a) Any birth, fetal death, death, or marriage record which was registered within a period of one year from the date of the event under the provisions of this division, or any copy of such record or part thereof, properly certified by the State Registrar, local registrar, or county recorder, is prima facie evidence in all courts and places of the facts stated therein.

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.3 Presence of a Stepparent or UAM in the Home

Deprivation is not affected by the presence in the home of a stepparent or an unrelated adult male.

NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code. Reference: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

41-405 **TERMINATION OF DEPRIVATION** **41-405**

.1 When a basis for deprivation ceases, and the family remains in need, the county shall determine if any other basis for deprivation exists.

(SAR) .11 When a basis for deprivation ceases mid-period, the county shall not take mid-period action based on changes in deprivation. Any change in deprivation shall be reported on the SAR 7 or the SAWS 2 and any change in eligibility or grant amount that results from the change in deprivation shall be effective the first day of the next SAR Payment Period.

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(AR/CO) When a basis for deprivation ceases mid-period, the county shall not take mid-period action based on changes in deprivation, with the exception of changes in deprivation due to changes in household composition (see Section 41-405.111). Any change in deprivation, outside of changes in household composition, shall be reported on the SAWS 2 and any change in eligibility or grant amount that results from the change in deprivation, outside of changes in household composition, shall be effective the first day of the next AR/CO Payment Period.

(AR/CO) .111 The county shall take action based on a change in deprivation due to changes in household composition. Any change in eligibility or grant amount that results from the change in deprivation, due to changes in household composition, shall be determined pursuant to Section 44-316.325(AR/CO).

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11265.2, 11265.47, 11265.48, and 11450.5, Welfare and Institutions Code.

41-410	RELINQUISHMENT FOR ADOPTION	41-410
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Repealed by DSS Manual Letter No. EAS-88-05.

41-420	PARENT IS DECEASED	41-420
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- .1 Deprivation exists if either parent is deceased.
- .2 Acceptable evidence of the death of a parent is:
 - .21 A copy of the death certificate.
 - .22 An award letter from the Social Security Administration based on the death of the parent.
 - .23 A newspaper account of the parent's death.
 - .24 Other reliable documentation

41-430 PHYSICAL OR MENTAL INCAPACITY OF A PARENT**41-430****.1 Deprivation Due to Incapacity**

Deprivation due to physical or mental incapacity of a parent shall be deemed to exist when the parent of an otherwise eligible child has a physical or mental illness, defect, or impairment that reduces substantially, or eliminates the parent's ability to support or care for the child for a period which is expected to last at least 30 days (this is not intended to be a waiting period) and which is supported by acceptable evidence as specified in .2 below. Where the incapacity is initially expected to last less than 30 days but in fact lasts longer, payment shall be granted retroactively effective the correct beginning date of aid (see Section 44-317.12 and 44-317.8).

Deprivation exists if the incapacity:

- .11 Prevents the parent from working full time at a job in which he or she has customarily engaged; and from working full time on another job for which he or she is equipped by education, training or experience, or which can be learned by on-the-job training; or
- .12 Is the reason employers refuse to employ him or her for work the parent could do. This includes behavioral disorders which interfere with the securing and maintaining of employment; or
- .13 Prevents him or her from accomplishing as much on a job as a regular employee and is the reason the parent is paid on a reduced basis even though working full time; or
- .14 Qualifies the parent and he or she is employed in a job which is rehabilitative, therapeutic or in a sheltered workshop not considered to be a full-time job; or
- .15 Reduces substantially or eliminates the parent's ability to care for the child.

.2 Determination of Incapacity

The determination that incapacity exists shall take into consideration the limited employment opportunities of handicapped individuals and be based upon the following acceptable evidence:

- .21 A finding of eligibility for OASDI, SSI/SSP, worker's compensation, or SDI benefits based upon parent's disability or blindness is conclusive proof of incapacity for AFDC purposes when verified by the authorizing agency and the verification is adequately documented in the case record.

41-430 **PHYSICAL OR MENTAL INCAPACITY OF A PARENT** (Continued) **41-430**

- .22 Form CA 341 (Medical Report) or other written statement from a physician licensed or certified psychologist, or by an authorized member of his or her staff with access to the patient's medical records that provides information sufficient to substantiate the determination of incapacity and includes the following:
- .221 A diagnosis of the parent's condition and explanation of the extent to which it prevents him or her from engaging in employment or why it reduces substantially, or eliminates the parent's ability to support or care for the child.
 - .222 The expected duration of the condition, and date of the next scheduled examination or appointment.
 - .223 The doctor's name, address and phone number.
- .23 Where a written statement cannot be obtained without delay, for reasons beyond control of the applicant, a verbal statement from the physician, licensed or certified psychologist or an authorized staff member with access to the applicant's medical records verifying incapacity as specified above may be accepted pending written verification up to a maximum of 60 days.

If obtained verbally, documentation must include the date verification was obtained, the name of the person who supplied the verification, and the name of the county person who obtained verification.

.3 Review

If the individual's condition is expected to last more than one year it is to be reviewed at the annual reinvestigation. If the condition is not expected to last more than one year, review is to be completed at the time the condition is expected to end or earlier if there is reason to believe there has been a change in the condition.

41-440 **UNEMPLOYED PARENT PROGRAM** **41-440**

The requirements of Section 41-440 apply to all principal earners who establish deprivation based on unemployment whether the individual is included or excluded from the assistance unit.

.1 Definitions

(a) Unemployed Parent:

- (1) An unemployed parent is one of the natural or adoptive parents with whom a child is living, who is the principal earner [see Section 41-440.1(b)], and who:

41-440	UNEMPLOYED PARENT PROGRAM (Continued)	41-440
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- (A) Is not employed; or
 - (B) Is employed less than 100 hours during the four-week period prior to the date of eligibility for cash aid based on unemployment.
 - (C) Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.
- (2) When the principal earner is employed for less than 100 hours during the four-week period prior to the date of eligibility, he/she shall not be considered employed for purposes of unemployment deprivation.

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Example 1:

A family applies for CalWORKs on the basis of unemployment deprivation on January 5, 1998; the CWD authorizes aid on February 2, 1998. On February 3, 1998, the principal earner (PE) reports that he accepted work on that day and he expects to work over 100 hours per month. Since the PE did not accept work until the day after aid was authorized (i.e., after becoming a recipient), the 100-hour limit is not applicable.

Eligibility for the AU will continue until ineligibility occurs due to excess income, excess property, etc.

Example 2:

A family applies for CalWORKs on the basis of unemployment deprivation on January 5, 1998; the CWD authorizes aid on February 1, 1998. On February 3, 1998, the PE reports that he accepted work on January 31, 1998, and he expects to work over 100 hours indefinitely. Since the PE accepted work before aid was authorized (i.e., prior to becoming a recipient), the 100-hour rule limitation is applicable. The CWD will issue a timely notice of action and terminate aid effective February 28, 1998. As ineligibility occurred prior to the authorizing action, the family is overpaid for January 1998 and February 1998.

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- (3) Since only the principal earner can establish unemployment deprivation, the 100-hour standard does not apply to the parent who is not the principal earner.
- (b) Hours of Employment -- The hours an individual spent providing a service or product, whether the individual is an employee or self-employed. Any hours spent working to acquire earned income, whether the individual receives the income or not, shall be considered toward the 100-hour limit in (a) above.

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EXAMPLE:

A principal earner is self-employed as a salesperson selling a product door-to-door. The individual spent the following hours during the four-week period prior to the date of eligibility in connection with his/her occupation:

36 hours collecting orders for the product.

12 hours ordering the products from the supplier. This includes completing the necessary work and going to the post office.

5 hours developing and delivering flyers advertising the business.

4 hours with floor duty at the distributor's office.

32 hours delivering the products to the customers.

10 hours distributing new catalogs.

In this situation, all of the above hours count as hours worked because all hours were spent promoting the business or attempting to or making contact with prospective or actual customers.

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- (c) Principal Earner: In a home in which both parents of an eligible child are living, the principal earner is whichever parent earned the greater amount of income in the 24-month period, the last month of which immediately precedes the date of application or the month of transfer to the unemployed parent program as defined in Section 41-440.1(d):

When both parents qualify as the principal earner and have earned an identical amount of income in such 24-month period, the county in consultation with the parents shall designate which parent is the principal earner. Once the principal earner has been determined correctly, the parent continues to be the principal earner for each consecutive month for which the family receives aid under the unemployed parent program.

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(d) Date of Transfer to the unemployed parent program: The date for determining the transfer to the unemployed parent program is either:

- (1) the date of application for CalWORKs benefits on the basis of unemployment of the principal earner, or
- (2) the date of an interprogram status change when a family's circumstances have changed in such a way that eligibility may be established for the unemployed parent program; for example, a parent returns to the home, a parent is no longer incapacitated.

The county shall identify the need for and assist the recipient in making the status change.

(e) Applicants for aid who are participating in an on-the-job training (OJT) program or any similar work training activity, in which the parent is paid a wage, shall be considered employed for purposes of determining deprivation.

(f) Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

(g) Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

(h) Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

(i) Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

(j) Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

(k) Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

(l) Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

(m) Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

(n) Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

41-440 UNEMPLOYED PARENT PROGRAM (Continued) 41-440

.2 Requirements to be Met in Order to Establish Deprivation Due to Unemployment

To establish deprivation due to unemployment, the following requirements shall be met;

- .21 Deprivation shall be due to the unemployment of the principal earner. Deprivation due to unemployment exists if the principal earner is unemployed (See Section 41-440.1(a)) for definition of unemployed) and the child would otherwise be deprived for AFDC except that neither of his/her parents is deceased, incapacitated, or absent from the home.
- .22 The principal earner shall have worked less than 100 hours (Section 41-440.1(a)) during the four-week period prior to the date of eligibility for cash aid based on unemployment deprivation. The four-week period shall be adjusted daily to determine the four-week period in which the applicant principal earner worked less than 100 hours. (See Handbook Section below.)
 - .221 An individual who applies for CalWORKs after leaving aid due to AB 98 subsidized employment income as described in Sections 42-716.721(a) and 42-716.723(a) or expanded subsidized employment income as described in Section 42-716.81, shall be considered a current recipient for the purpose of establishing unemployment deprivation if he or she applies within three calendar months of the subsidized employment ending.
 - (a) During the three calendar month period after the subsidized employment ends, the 100-hour work rule as described in Section 41-440.22 shall not apply.
 - (b) If an individual applies for CalWORKs after this three-month period has passed, he or she shall be considered an applicant for the purpose of establishing unemployment deprivation as described in Section 41-440.22, and the 100-hour work rule will apply. (See Handbook Section below.)

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.222 EXAMPLE:

An applicant principal earner was laid off on April 13th and worked a total of 40 hours in April and 40 hours per week in March. The family applied for aid on April 14th. The original four-week period would be from March 17th through April 13th. Since the PE worked 120 hours during this four-week period, a new four-week period would need to be identified.

March 18th through April 14th = 112 hours
March 19th through April 15th = 104 hours
March 20th through April 16th = 96 hours

The qualifying four-week period in which the PE worked less than 100 hours would be from March 20th through April 16th. The beginning date of aid for this family would be April 17th, if otherwise eligible.

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41-440 UNEMPLOYED PARENT PROGRAM (Continued) 41-440

- .23 The principal earner, who is apparently eligible for UIB (see Section 82-610), shall apply for and accept any unemployment insurance benefits (UIB) to which he/she is entitled, when referred to EDD by the county welfare department. When the principal earner does not meet this requirement, unemployment deprivation does not exist for the family. This requirement is considered to be met on the date of application as long as it is completed by the date of authorization of aid.
- .24 The principal earner shall not be considered to be unemployed as a result of his/her participation in a strike.
- .3 Repealed by Manual Letter No.85-44, effective 7/1/85.
- .4 Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.
- .5 Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.
- .6 Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.
- .7 Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

NOTE: Authority cited: Sections 10553, 10554, 10604, 11209, and 11450(g), Welfare and Institutions Code.
Reference: Sections 10553, 10554, 10604, 11201, 11201.5, 11270, 11322.63(b) and 11322.64(f), Welfare and Institutions Code; and 45 CFR 233.10(a)(1), 233.100(a)(5), and 250.30(b); Family Support Act of 1988, Public Law (PL) 100-485, October 13, 1988; Family Support Administration Action Transmittal 91-15 (FSA-AT-91-15), dated April 23, 1991; and Omnibus Budget Reconciliation Act (OBRA) of 1990, Section 5061.

41-441 PROCEDURES FOR REFERRAL TO AND COMMUNICATIONS WITH EDD-JS FOR APPLICANTS/RECIPIENTS 41-441

Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

41-442 CAUSE DETERMINATIONS AND PENALTIES 41-442

Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

41-450 CONTINUED ABSENCE OF A PARENT 41-450

.1 Definition of "Continued Absence"

- .11 "Continued Absence" exists when the natural parent is physically absent from the home, and the nature of the absence results in an interruption or termination of the parent's functioning as a provider of maintenance, physical care, or guidance for the child, regardless of the reason for the absence or the length of time the parent has been absent, and the known or indefinite duration of the absence precludes counting on the parent's performance in planning for the present support or care of the child.

If such an interruption or termination of performance of parental responsibilities exists, "continued absence" shall be considered to exist for purposes of eligibility for AFDC even if the parent remains in contact with the child through regular or frequent visitation. Regular or frequent visits with the child by a parent who is physically absent from the home shall not, in and of itself, prevent a determination that "continued absence" exists. "Continued absence" shall be considered to exist when the child lives with each parent for alternating periods of time.

"Continued absence" shall also be considered to exist when a parent who is a convicted offender is permitted to live at home while serving a court imposed sentence by performing unpaid public work or unpaid community service during the workday. This parent may be eligible to receive AFDC. (See Sections 44-203.213, 82-828.2, and 80-301(a)(5).

- .12 "Continued Absence" does not exist when one parent is physically absent from the home on a temporary basis (see Section 82-812). Examples are visits, trips or temporary assignments undertaken in connection with current or prospective employment.
- .13 "Continued Absence" does not exist when a parent is absent for the sole reason of performing active duty in the uniformed services of the United States.
- .131 Uniformed services of the United States means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration and the Public Health Service of the United States.
- .132 When an individual provides appropriate evidence (see Section 41-450.4) to establish that continued absence would exist irrespective of the parent's performance of active duty in the uniformed service of the United States, continued absence shall be considered to exist.

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- .14 When a question exists regarding continued absence of a parent various factors may be considered such as but not limited to:
- .141 Does the parent provide day-to-day care and control of the child?
 - .142 Do the parents maintain separate homes?
 - .143 Do the parents have separate mailing addresses?
 - .144 Do the parents maintain their money separately?
 - .145 Do the parents have access to each others income or resources?
 - .146 Is the parent absent due to hospitalization; attendance at school; visiting; vacationing; or moving or trips made in connection with current or prospective employment?

Other similar factors may also be considered. A single factor may not be determinative.

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.2 Circumstances That Meet the Definition of "Continued Absence"

The continued absence of a parent from the home as defined in Section 41-450.1, includes but is not limited to the following circumstances:

- .21 The parents are not married to each other and have not maintained a home together.
- .22 The parent:
 - .221 Is not legally able to return to the home because of confinement in a penal or correctional institution, or
 - .222 Has been deported, or
 - .223 Has voluntarily left the country because of the threat of, or the knowledge that he or she is subject to deportation.

41-450 CONTINUED ABSENCE OF A PARENT (Continued) 41-450

- .23 A parent has filed, or retained legal counsel for the purpose of filing an action for dissolution of marriage, for a judgment of nullity, or for legal separation.
 - .24 The court has issued an injunction forbidding the parent to visit the custodial parent or child.
 - .25 The remaining parent has presented a signed, written statement (see .5 below) that the other parent has left the family and that the nature of the absence constitutes continued absence as defined in .1 above.
 - .26 Both parents are physically out of the home and their whereabouts are not known.
- .3 Beginning Date of "Continued Absence"
- Deprivation due to "continued absence" exists as of the date that one of the foregoing circumstances occurs, as shown by evidence presented in accordance with Section 41-450.4.
- .4 Evidence of "Continued Absence"
- .41 The written statement of the applicant or recipient parent may be considered sufficient evidence of "continued absence" of the other parent, unless conflicting information is known to the county or reasonable doubt indicates further evidence is necessary.
 - .42 If conflicting information is known to the county or reasonable doubt indicates further evidence is necessary, the written statement of the applicant or recipient parent must be supported by at least one of the following:
 - a. Additional evidence indicating "continued absence", which may include written statements of the absent parent or other persons with prior knowledge of the family relationship; or
 - b. Evidence of the actions of the applicant or the recipient or the absent parent that clearly indicate not only the physical absence of the other parent but also the continued nature of the absence as defined in Section 41-450.1 above.

NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code. Reference: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

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**LINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY
EMERGENCY ASSISTANCE - UNEMPLOYED PARENT PROGRAM**

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41-500 **EMERGENCY ASSISTANCE - UNEMPLOYED PARENT PROGRAM** **41-500**

Repealed by Manual Letter No. EAS-90-04, effective 10/1/90.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

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**LINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY
STATE-ONLY AFDC-U PROGRAM**

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Entire Chapter Repealed by Manual Letter No. EAS-91-10, effective 8/1/91.

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Repealed by Manual Letter No. EAS-91-10, effective 8/1/91.

NOTE: Authority cited: Sections 10553, 10554, and 11270, Welfare and Institutions Code. Reference: Sections 11056, 11201(b), and 11315, Welfare and Institutions Code.

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Repealed by Manual Letter No. EAS-91-10, effective 8/1/91.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

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Repealed by Manual Letter No. EAS-91-10, effective 8/1/91.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

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Repealed by Manual Letter No. EAS-91-10, effective 8/1/91.

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Entire Chapter Repealed by Manual Letter No. EAS-91-10, effective 8/1/91

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Repealed by Manual Letter No. EAS-91-10, effective 8/1/91

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Repealed by Manual Letter No. EAS-91-10, effective 8/1/91

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DIVISION 42 NONLINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY**CHAPTER 42-100 AGE****42-101 AGE REQUIREMENT****42-101**

- .1 A child meets the age requirement for CalWORKs eligibility until his/her 18th birthday. A child 18 years of age may be eligible if the requirements in Section 42-101.2 or .3 are met.
- .2 A child 18 years of age is eligible for CalWORKs only if he/she is enrolled as a full-time student (as defined by the school) in high school or, if he/she has not completed high school, in a vocational or technical training program which cannot result in a college degree, provided he/she can reasonably be expected to complete either program before reaching age 19.
 - .21 The requirements of this section cannot be met by correspondence course work.
 - .22 A student enrolled in a full-time program shall be considered attending on a full-time basis until enrollment is terminated by the school or the student.
 - .23 In addition, for a child in receipt of Kin-GAP, the child and placement agency must sign a mutual agreement (KG 1) prior to or within the month the child reaches age 18.
- .3 Non-Minor Dependents
 - .31 A non-minor dependent is eligible for CalWORKs beyond age 18 if he/she is in foster care and meets one or more of the following requirements:
 - (a) Enrolled in and working towards completing high school or an equivalency program.
 - (b) Enrolled at least half-time in post-secondary or vocational school, or enrolling for the next available term.
 - (c) Participating in a program or activity that promotes or removes barriers to employment.
 - (d) Employed at least 80 hours per month.
 - (e) Incapable of enrollment or participation in school or employment due to a documented medical (physical, mental, or emotional) condition.
 - .32 In addition, the non-minor dependent must sign a mutual agreement with the county welfare department documenting the non-minor dependent's agreement to comply with program requirements and eligibility conditions for extended CalWORKs benefits.
 - (a) A non-minor dependent is exempt from signing a mutual agreement if he/she is unable to give consent due to a documented medical condition (i.e., physical, mental, or emotional).

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- | .4 Children who currently receive or have in the past received SSI/SSP benefits shall be considered disabled. Parent/caretaker relatives shall cooperate with the CWDs to obtain verification of receipt of SSI/SSP benefits. Past or present 18-year-old recipients of SSI/SSP benefits who attend school full-time shall be considered an eligible child in their parent/caretaker relative's AU and aid shall continue for the otherwise eligible parent/caretaker relative until the child completes the program, turns 19 or stops attending school full-time, whichever occurs first.
 - | .41 Verification may include a copy of a Social Security determination letter. To determine if the child who is turning 18-years-old is attending school full-time, verification shall be obtained in accordance with MPP Section 40-105.5 (b).

- | .5 Children who currently receive or have in the past received services through a Regional Center Program pursuant to the Lanterman Act shall be considered disabled. Parent/caretaker relatives shall cooperate with the CWD to obtain verification of receipt of services. Otherwise eligible 18-year-olds who attend school full-time and are considered disabled under this criterion shall be eligible for CalWORKs benefits until they complete the program, turn 19 or stop attending school full-time, whichever occurs first.
 - | .51 Verification may include a statement from the Regional Center stating that the child is currently receiving or has in the past received services. To determine if the child who is turning 18-years-old is attending school full-time, verification shall be obtained in accordance with MPP Section 40-105.5(b).

- | .6 Children who currently receive services at school in accordance with their Individual Education Plan (IEP) or receive services under/pursuant to Section 504 of the Rehabilitation Act (e.g., a Section 504 Plan or Section 504 Accommodation Plan) or have received such services in the past, shall be considered to be disabled. Parent/caretaker relatives shall cooperate with the CWD to obtain verification of receipt of services. Otherwise eligible 18-year-olds who attend school full-time and are considered disabled under this criterion shall be eligible for CalWORKs benefits until they complete the program, turn 19 or stop attending school full-time, whichever occurs first.
 - | .61 Verification may include a copy of the child's IEP or Section 504 Plan/Section 504 Accommodation Plan (MPP 40-105.5 (b)). To determine if the child who is turning 18 years-old is attending school full-time, verification shall be obtained in accordance with MPP Section 40-105.5 (b).

- .7 When a child's disability cannot be verified by the criteria described above, the parent/caretaker relative can provide independent verification or authorize the CWD to obtain documentation from a health care provider or a trained, qualified learning disabilities evaluation professional of a current or past disability. Otherwise eligible 18-year-olds who attend school full-time and are considered disabled under this criterion shall be eligible for CalWORKs benefits until they complete the program, turn 19 or stop attending school full-time, whichever occurs first. To determine if the child who is turning 18-years-old is attending school full-time, verification shall be obtained in accordance with MPP Section 40-105.5(b).

NOTE: Authority cited: Sections 10553, 10554, and 11369, Welfare and Institutions Code. Reference: Sections 10063(a), 11253, and 11403(b), Welfare and Institutions Code, Fry v. Saenz 98 Cal.App.4th256, and Fry v. Saenz, (Sacramento County Superior Court), Case No. 00CS01350, Judgment and Peremptory Writ of Mandate, July 7, 2004.

42-111 EVIDENCE OF AGE**42-111**

- .1 Determination of a child's age shall be based on acceptable evidence, including, but not limited to the following, which the county determines to be substantive and genuine:
- a. Birth certificate or hospital's, physician's or midwife's birth record.
 - b. Baptismal certificate or church record of baptism.
 - c. Confirmation papers or church record of confirmation.
 - d. School records.
 - e. Indian agency records (if applicable).
 - f. Immigration papers or governmental record of immigration.
 - g. Naturalization papers or governmental record of naturalization.
 - h. Adoption decree.
 - i. Passport.
 - j. State of Federal census record.
 - k. The affidavit of an adult if it is based on his personal knowledge of facts which would determine the probable age of the applicant and is not merely a statement of belief based on applicant's personal appearance. Such affidavit must contain statements of the circumstances upon which the affiant's knowledge is based.
 - l. Entries in a family Bible or other genealogical record or memorandum of such applicant.
- .2 The EW shall record in the case record the documentation used to establish age, the pertinent evidence contained in such document(s) and the date he reviewed the documentation.

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**NONLINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY
PROPERTY**

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CHAPTER 42-200 PROPERTY

42-200 PROPERTY - GENERAL **42-200**

Renumbered to Section 42-201 by Manual Letter No. 85-51, effective 8/1/85.

42-201 PROPERTY - GENERAL **42-201**

- .1 Real and personal property shall be considered for purposes of this chapter when it is actually available. Property shall also be considered when the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make that sum available for support and maintenance.
- .2 Limits on property holdings have been set high enough that a person need not be completely destitute to qualify for aid. On the other hand, these limits insure that persons who own property sufficient to provide themselves with the necessities of life do not receive aid intended for those in greater need. Limits on property which he/she can retain and remain eligible for aid are set forth in this chapter.

HANDBOOK BEGINS HERE

.3 Objectives

In determining eligibility with respect to property, it is necessary to ascertain the purposes for which property is held. A person is eligible if the property he owns is held for any one of the following purposes (within certain limits): (1) To provide him with a home; (2) to provide him with income to help meet his needs; (3) to provide him with a reserve to meet a future need.

Emphasis is placed on the purpose for which property is allowed to be held. The specific limits with respect to use or total value on some types of property constitute a part of the definition of a needy person; but the more important consideration is that property may be held within those limits, because it meets a present or future need of the recipient.

Regulations in this chapter are designed to express a general test: does the property meet a current need or is it to be held for some future need? This test should be the basis of decision in situations not specifically or exactly covered by the regulations.

Policies governing eligibility with respect to property shall be administered with consideration to the ability and circumstances of the person in order that undue hardship not be imposed upon him in making his plans to comply with property provisions.

HANDBOOK ENDS HERE

42-203 BASIC DEFINITIONS
42-203

.1 Real Property

Real property generally is land and improvements, as differentiated from cash, bonds, mortgages, or similar assets which are personal property. Real property includes as a general rule, immovable property attached to the land such as trees, fences, buildings, etc. It also includes mines, patented or unpatented oil, mineral or timber rights.

.2 Personal Property

Personal property is defined in accordance with Food Stamp regulations.

HANDBOOK BEGINS HERE

.21 See Food Stamp regulations at Manual of Policies and Procedures Section 63-501.1.

HANDBOOK ENDS HERE

.3 Owner of Property

The owner of property is the person who has the legal title to, the right to or has possession of the property. Unless there is evidence to prove otherwise, it is presumed for purposes of determining eligibility that the person who "owns" the property has the right to possess, use, control, and dispose of the property.

The ownership of property may be vested in one individual or shared with others.

HANDBOOK BEGINS HERE

.31 For questions concerning joint ownership of personal property, including vehicles, see Food Stamp regulations at Manual of Policies and Procedures Section 63-501.2.

HANDBOOK ENDS HERE

.4 Separate Property -- General

Property acquired by the husband or wife prior to marriage is separate property. If either spouse separately acquires property by gift or inheritance, after marriage, that property is the separate property of that spouse. Property acquired during marriage remains separate property if purchased with funds which are the separate property of the owner, such as funds received from the sale of separate property or property received by gift or inheritance.

42-203 BASIC DEFINITIONS (Continued) 42-203

.41 Separate Property Derived From Income

If the spouses are living separate and apart from each other, the income of each spouse is the separate income of that spouse in the month of receipt and separate property if retained past the month of receipt.

.42 Marital Separation

For the purposes of this section, the spouses have separated if they have obtained an interlocutory or final judgment of dissolution, if they are legally separated or if they are informally separated. (They are living separate and apart from each other and they consider their marital relationship to have ended.)

HANDBOOK BEGINS HERE

.43 For questions concerning joint ownership of personal property, including vehicles, see Food Stamp regulations at Manual of Policies and Procedures Section 63-501.2.

HANDBOOK ENDS HERE

.5 Community Property -- General

Community property, real or personal, is property acquired by the husband or wife during marriage (unless acquired as separate property). It includes property purchased with community funds, which include earnings of the spouses while married and living together, income derived from community property, and funds received from the sale of community property. Community property generally includes property purchased on the personal credit of either spouse. If property is purchased with funds which cannot be identified as separate property, such property shall be presumed to be community property. However, this presumption can be rebutted, for the entire property or a portion thereof.

NOTE: Due to the complexity of community property laws, the appropriate County Legal Officer should be consulted if problems arise in determining whether property is community or separate.

HANDBOOK BEGINS HERE

.51 For questions concerning joint ownership of personal property, including vehicles, see Food Stamp regulations at Manual of Policies and Procedures Section 63-501.2.

HANDBOOK ENDS HERE

.6 Transfer of Property

A transfer of property means a change of ownership whereby an applicant or recipient through such transfer has divested himself in whole or in part of a resource actually available to him.

.7 Net Market Value (Real Property Only)

Net market value is the highest price that real property, less encumbrances thereon, will bring in a sale by a willing seller to a willing buyer in the ordinary course of business.

.8 Members of the CalWORKs Family

For purposes of this chapter, the members of the CalWORKs family are the child and his/her natural or adoptive parents and, when seeking aid for themselves, his/her eligible stepparents and needy caretaker relative, provided they are not receiving SSI/SSP benefits.

.9 Liquidated Sum

A liquidated sum, for purposes of this chapter, is that amount of money that can be realized from the sale or disposition of real property. See Section 42-203.1 for a definition of real property.

.10 Conversion of Property

For purposes of this chapter, conversion occurs when a recipient changes an existing resource from one form to another.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10063 and 11155 (Ch. 270, Stats. of 1997), Welfare and Institutions Code.