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Regulation Package No. 0513-04

CDSS MANUAL LETTER NO. CFC-13-01

TO: HOLDERS OF THE CONFIDENTIALITY, FRAUD, CIVIL RIGHTS AND STATE HEARINGS MANUAL, DIVISION 22

Regulation Package #0513-04

Effective 7/1/13

Sections 22-071, 22-072 and 22-305

This manual letter has been posted on the Office of Regulations Development website at <http://www.dss.cahwnet.gov/ord/PG604.htm>

Assembly Bill (AB) 6 (Chapter 501, Statutes of 2011) replaces the Quarterly Reporting/Prospective Budgeting (QR/PB) system with a Semi-Annual Reporting (SAR) system in the California Work Opportunity and Responsibility to Kids (CalWORKs) Program.

This manual letter includes the amendments made to the State Hearings Manual (Division 22) as a result of the adoption of the new SAR system in the CalWORKs Program.

These regulations were adopted on an emergency basis and will be considered at the Department's public hearing to be held on September 4, 2013.

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Confidentiality, Fraud, Civil Rights, and State Hearings Manual changes was CFC-10-02.

<u>Page(s)</u>	<u>Replace(s) Page(s)</u>
130 through 139	130 through 139
174 through 175.2	174 through 175.2

Attachments

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22-069 COUNTY WELFARE RESPONSIBILITY 22-069

- .1 Each county shall furnish to the State Hearings Division the name of an individual who, in coordination with the Chief Administrative Law Judge, is responsible for discharging the requirements of Sections 22-069 through 22-078.

HANDBOOK BEGINS HERE

- .11 Sections 22-069 through 22-078 describe the responsibilities of the county in the state hearing process.

HANDBOOK ENDS HERE

- .12 The county responsibility shall include:

- .121 Submission of the original hearing request to the Administrative Law Judge at the hearing.
- .122 Review of the case and assistance to the claimant prior to the hearing; and
- .123 Presentation of the county's position during the hearing; and
- .124 Compliance with state hearing decisions.

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

22-070 EXPLANATION OF RIGHT TO STATE HEARING 22-070

- .1 At the time of application, the county agency shall provide the applicant with the following:
- .11 A thorough explanation of the right to request a state hearing.
 - .12 Pamphlet PUB 13 (1/98), "Your Rights Under California Welfare Programs," prepared by the Department concerning client rights, complaints and state hearings.
- .2 The county shall also provide the explanation required in Sections 22-070.11 when a claimant makes an informal complaint with the county agency.

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

22-071 ADEQUATE NOTICE

22-071

- .1 Except as provided in Section 22-071.2, the county shall give the claimant adequate notice as defined in Section 22-001(a)(1) in the following instances:
 - .11 When aid is granted or increased.
 - .12 For CalWORKs and CalFresh cases, Section 22-071.12(QR) shall become inoperative and Section 22-071.12(SAR) shall become operative in a county on the date Semi-Annual Reporting (SAR) becomes effective in that county, pursuant to the County's SAR Declaration.
 - (QR) For CalWORKs and Food Stamp cases, when aid is denied, decreased, not changed following a recipient mid-quarter report, cancelled, or discontinued. When aid is not changed due to a voluntary recipient mid-quarter report, the notice shall be sent as soon as administratively possible but no later than thirty days from the date the voluntary report is made.
 - (SAR) For CalWORKs and CalFresh cases, when aid is denied, decreased, not changed following a recipient mid-period report, cancelled, or discontinued. When aid is not changed due to a voluntary recipient mid-period report, the notice shall be sent as soon as administratively possible, but no later than thirty days from the date the voluntary report is made.
 - .13 For all cases other than CalWORKs and CalFresh cases, when aid is denied, decreased, suspended, cancelled, discontinued, or terminated.
 - .131 For purposes of Sections 22-071.12 and .13, a decrease shall include an overpayment adjustment and balancing.
 - .14 When the county demands repayment of an overpayment or a CalFresh overissuance.
 - .15 When the county takes action after the claimant has conditionally withdrawn a request for a state hearing (see Section 22-054).
 - .16 When a CalFresh application is pended (see Section 63-504.24).
 - .17 When the county determines that immediate need does not exist (see Section 40-129).
 - .18 When the county takes action regarding compliance related issues resulting from state hearing decisions (see Sections 22-001c.(3) and 22-078).
 - .19 When the county takes action to change the manner or form of payment to a protective or vendor payment.
- .2 The adequate notice requirement is not applicable to certain actions involving Social Services (Division 30) and CalFresh (MPP Section 63-504.266).
- .3 In all cases, the notice shall be prepared on approved Department forms or a county substitution which has been approved by the California Department of Social Services, including but not limited to a county-developed computer equivalent.

22-071 **ADEQUATE NOTICE** **22-071**
(Continued)

- .4 The notice shall be prepared in clear, nontechnical language.
- .5 If a claimant submits a request for a state hearing on the back of the notice, a duplicate copy of the notice shall be provided to the claimant on request.
- .6 When appropriate, the notice shall also inform the claimant regarding what information or action, if any, is needed to reestablish eligibility or determine a correct amount of aid.

NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code. Reference: Sections 10553, 10554, 10613, 11209, 11265.1, 11265.2, and 11265.3, Welfare and Institutions Code; and 45 CFR 255.4(j)(1) and 256.4(b).

22-072 **TIMELY NOTICE - AID PENDING HEARING** **22-072**

- .1 Except as provided below, in all instances where the county action would result in a discontinuance, termination, suspension, cancellation, or decrease of aid, or in a change in the manner or form of payment to a protective or vendor payment, the county shall mail timely and adequate notice as defined in Sections 22-001a.(1) and 22-001t.(1) to the persons affected.
 - .11 The provisions of Section 22-072 shall not apply to certain actions involving Social Services (see Division 30).
 - .12 In the CalFresh Program the provisions of Section 22-072 shall be limited and modified by Sections 63-504.266, .267, and 63-804.6.
 - .13 When either state or federal law requires automatic grant adjustments for classes of recipients, the Department shall provide timely and adequate notice to the persons affected or shall direct the county to give such notice at least ten days prior to the effective date of the adjustment.
- .2 Timely notice shall not be required in the following instances, although the county shall send adequate notice no later than the effective date of the action:
 - (a) The county has factual information confirming the death of the person affected.
 - (b) The county receives a clear written statement signed by the person affected that:
 - (1) He/she no longer wishes aid, or

22-072	TIMELY NOTICE - AID PENDING HEARING (Continued)	22-072
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- (2) Gives information which requires discontinuance or reduction of aid and the person has indicated, in writing, that he/she understands that this must be the consequence of supplying such information.

- (c) The person affected has been admitted or committed to an institution, and further payments to that individual do not qualify for federal financial participation under the state's plan.

- (d) The person affected has been placed in a skilled nursing facility, intermediate care facility or long-term hospitalization.

- (e) The whereabouts of the person affected are unknown and the county mail directed to him/her has been returned to the Post Office indicating no known forwarding address.
 - (1) The person's aid payment shall be made available to him/her if his/her whereabouts become known during the payment period covered by the returned check.

- (f) A CalWORKs child is removed from the home as a result of a judicial determination, or voluntarily placed in foster care by his/her parent or legal guardian.

- (g) The person affected has been accepted for aid in a new jurisdiction, and that fact has been established by the county previously providing aid.

- (h) A change in level of medical care is prescribed by the recipient patient's physician or modified by utilization review.

- (i) A special allowance granted for a specific period is terminated, and the recipient has been informed in writing at the time of initiation that the allowance shall automatically terminate at the end of the specified period.

- (j) Reserved

22-072 **TIMELY NOTICE - AID PENDING HEARING** **22-072**
(Continued)

- (k) The CWD has made a presumption of mismanagement of CalWORKs funds based upon a recipient's nonpayment of rent.
 - (1) A presumption of mismanagement based upon nonpayment of rent includes the inability of a recipient to provide verification that CalWORKs Homeless Assistance was spent on shelter/housing, in accordance with Section 44-211.514(e).
 - (l) Section 22-072.2(l)(SAR) shall become operative in a county on the date SAR becomes effective in that county, pursuant to the County's SAR Declaration.
 - (QR) For CalWORKs and Food Stamp cases, the county determines there will be no change in a recipient's cash aid as a result of a recipient mid-quarter report.
 - (SAR) For CalWORKs and CalFresh cases, the county determines there will be no change in a recipient's cash aid as a result of a recipient mid-period report.
- .3 If timely notice is not required under the provisions of Section 22-072.2, and the claimant requests a state hearing within ten days of the required adequate notice, aid shall be reinstated retroactively, according to the provisions of Section 22-072.5.
- .31 Aid shall not be reinstated retroactively if the CWD has made a presumption of mismanagement of CalWORKs funds based on the claimant's nonpayment of rent.
- .4 In computing the notice period required by Section 22-072.1, the 10-day period shall not include the date of mailing, or the date that the action is to take effect.

HANDBOOK BEGINS HERE

- .41 Thus, if the effective date of the action is to be June 1, the notice shall be mailed no later than May 21.

HANDBOOK ENDS HERE

22-072 **TIMELY NOTICE - AID PENDING HEARING** **22-072**
(Continued)

- .5 Except as provided in Sections 22-054.1 and 22-072.7, when the claimant files a request for a state hearing prior to the effective date of the Notice of Action, which is subject to Section 22-072.1, aid shall be continued in the amount that the claimant would have been paid if the proposed action were not to be taken, provided the claimant does not voluntarily and knowingly waive aid. This section shall not apply to CalWORKs (Welfare to Work) supportive services payments (see Section 42-750.213). In the CalFresh Program, benefits shall be continued on the basis authorized immediately prior to the notice of adverse action.

HANDBOOK BEGINS HERE

- .51 **EXAMPLE:** If the notice is mailed on April 20th to be effective May 1st, the request shall be filed before May 1.

HANDBOOK ENDS HERE

- .52 If the notice proposing action is required to be timely and is not, the hearing request shall be required to be filed before the next date on which the proposed action could become effective based on timely notice.

HANDBOOK BEGINS HERE

- .521 **EXAMPLE:** If the notice is mailed April 21 to be effective May 1, the hearing request must be filed before the next regular benefit issuance date which occurs at least ten days after the April 21 notice.

HANDBOOK ENDS HERE

- .522 In the CalFresh Program if a recipient fails to file a hearing request before the effective date of the proposed action, aid pending is appropriate provided the recipient establishes good cause with the State Hearings Division or the Administrative Law Judge (see Section 63-804.613).

22-072	TIMELY NOTICE - AID PENDING HEARING (Continued)	22-072
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.64 The claimant is granted a postponement of the hearing by the Administrative Law Judge at the hearing for a reason that does not constitute good cause as specified in Section 22-053.113.

| .641 This provision shall not apply to a first time postponement in the CalFresh Program.

| .65 In the CalFresh Program, the certification period expires (see Section 63-804.642(a)).

.7 After the hearing, and within ten days from receipt of the aid paid pending decision, the claimant or the county may submit a written request to the State Hearings Division for reconsideration of the aid paid pending decision.

.71 Each party shall be notified of the request and the result of the reconsideration.

.8 Nothing in this chapter shall prohibit the county from instituting any appropriate changes in the recipient's grant while a state hearing is pending, provided that the factual basis of the proposed action is different from the action upon which the recipient is receiving aid pending.

.81 All such actions shall otherwise be subject to the provisions of this chapter.

NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code. Reference: Sections 10553, 10554, 10613, 11209, and 11265.1, Welfare and Institutions Code; 7 CFR 273.15(c)(4); 45 CFR 205.10; 45 CFR 255.2(h)(2); 45 CFR 256.2(c); and 45 CFR 256.4(d).

22-073

**COUNTY WELFARE AGENCY RESPONSIBILITY PRIOR TO THE
STATE HEARING**

22-073

- .1 Upon receipt of a request for hearing or notice from the Department that a recipient has filed a request for a state hearing, the county shall provide aid pending the state hearing in accordance with Section 22-072, when entitlement exists.
 - .11 Such payment shall be either placed in the U.S. Mail or available for hand-delivery to the recipient (if agreed to by the county and recipient) within five working days of the receipt of the hearing request by the appropriate agency as specified in Section 22-004, or the date the regular scheduled aid payment would otherwise have been paid to the recipient, whichever is later.
 - .12 If the claimant is not entitled to aid pending the hearing, the county may continue with its proposed action.
 - .121 Unless the evidence indicates otherwise, the receipt date for purposes of providing (issuing) aid paid pending shall be determined as follows:
 - (a) The date the written request is received by the CWD for county administered aid programs or the date the request is received by the Department for all other state aid programs.
 - (b) The date the oral request is received by the Department in Sacramento.
 - .122 The CWD shall compute the five day time limitation for paying aid paid pending from the date:
 - (a) A written request for a state hearing is received by the CWD.
 - (b) The CWD is notified by the State Hearings Division that it has received a written request for a state hearing.
 - (c) An oral request for hearing is received by the Department in Sacramento.

STATE HEARING AND REQUEST FOR REVIEW

Regulations AFDC ADMINISTRATIVE DISQUALIFICATION HEARINGS - GENERAL 22-305 (Cont.)

CHAPTER 22-300 AFDC ADMINISTRATIVE DISQUALIFICATION HEARINGS - GENERAL

22-301 ADMINISTRATIVE DISQUALIFICATION HEARINGS (ADHs) - GENERAL 22-301

- .1 The regulations in this chapter shall apply to hearings resulting from a county welfare department's (CWD's) determination, supported by documentation in the CWD's possession, that an individual has allegedly committed an intentional program violation (IPV) in the AFDC program as set forth in the California Department of Social Services (CDSS) Manual of Policies and Procedures, Division 20, Chapter 20-350.
- .2 Administrative disqualification hearings are distinct from the state hearings discussed in Chapter 22-000.
- .3 Those cases in which the prosecuting authority has determined (a) that facts do not warrant prosecution, or (b) those cases previously referred for prosecution and declined, shall be returned to the CWD and the CWD shall initiate referral action for an ADH through CDSS, in accordance with CDSS Manual of Policies and Procedures, Division 22.
- .4 The CWD shall not initiate an ADH against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of the appropriate jurisdiction, if the factual issues of the case arise out of the same or related circumstances.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: 7 CFR 273.16(a)(1) and 45 CFR 235.112(a).

22-305 GENERAL PROVISIONS 22-305

- .1 An ADH at the state level shall be initiated when a CWD informs the Department that sufficient evidence in the CWD's possession indicates that an administrative disqualification is appropriate.
 - .11 The Department shall then assume responsibility for the overall administration of the disqualification hearing process and the conduct of each hearing at the state level.
- .2 An ADH at the local level shall be initiated when a CWD informs the CWD-designated unit responsible for scheduling and conducting an ADH that sufficient evidence in the CWD's possession indicates that an administrative disqualification is appropriate.

22-305 GENERAL PROVISIONS 22-305
(Continued)

- .21 The CWD shall assume responsibility for the overall administration of the disqualification hearing process and the conduct of each hearing at the local level.
- .3 In both state and local level hearings, the CWD shall remain responsible for:
 - .31 Investigating the case and assisting the respondent prior to the hearing;
 - .32 Presenting the CWD's position during the hearing; and
 - .33 Complying with the hearing decision.

.4 Definitions

The definitions in Section 22-001 shall apply unless they are specifically provided for in this chapter. The following additional definitions, in alphabetical order, shall apply wherever the terms are used in this chapter:

- .41 Administrative Disqualification Decision - Means the written decision issued by the Administrative Law Judge (ALJ) after an ADH at the state level and by the CWD-designated hearing official after a local level hearing.
- .42 Intentional Program Violation (IPV) - Means an action by an individual, for the purpose of establishing or maintaining the family's eligibility for CalWORKs or for increasing or preventing a reduction in the amount of the grant, which is intentionally:
 - .421 A false or misleading statement or misrepresentation, concealment, or withholding of facts, or
 - .422 Any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

STATE HEARING AND REQUEST FOR REVIEW

Regulations AFDC ADMINISTRATIVE DISQUALIFICATION HEARINGS - GENERAL 22-305 (Cont.)

22-305 GENERAL PROVISIONS
(Continued)

22-305

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- (a) Handbook Section 22-305.422(a)(QR) et seq. shall become inoperative and Handbook Section 22-305.422(a)(SAR) et seq. shall become operative in a county on the date SAR becomes effective in that county, pursuant to the County's SAR Declaration.

To determine what constitutes an IPV, CDSS recognizes a distinction in the following:

- (1) Intentional concealment or willful misrepresentation which may result in an IPV.

(QR) EXAMPLE: In completing the Quarterly Eligibility Report (QR 7), respondent checks the box indicating the family has no income. Respondent also checks box indicating that no one had started employment in the QR 7 Reporting Period. County evidence indicates respondent did start work during the QR Data Month, but it was reported that no one had started work. Respondent also did receive earnings in each of the months under review.

(SAR) EXAMPLE: In completing the Semi-Annual Eligibility Report (SAR 7), respondent reports that the family has no income. Respondent also states that no one had started employment in the SAR 7 Reporting Period. County evidence indicates respondent did start work during the SAR Data Month, but it was reported that no one had started work. Respondent also did receive earnings in each of the months under review.

- (2) Incorrect representation, negligence, or omissions because of a mistake or a lack of understanding of eligibility requirements which do not result in an IPV.

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- (QR) EXAMPLE: Respondent reports on the QR 7 that he/she began employment the last week of the Data Month, and that he/she will be paid every two weeks. Respondent completes a subsequent QR 7 and checks the “No” box for income received in the month.
- (SAR) EXAMPLE: Respondent reports on the SAWS 2 that he/she began employment the last week of the fifth month of the SAR Payment Period and that he/she will be paid every two weeks. Respondent completes the subsequent SAR 7 and reports that they did not receive any income in the Data Month.
- (3) The CWD's omission, neglect, or error in explaining requirements for assistance or in processing information, which does not result in an IPV.
- (QR) EXAMPLE: Respondent completes QR 7 without answering question relating to household's receipt of income during the Data Month. Respondent does this for two quarters and the county fails to return the QR 7 as incomplete. Evidence establishes respondent had income during the Data Month.
- (SAR) EXAMPLE: Respondent completes the SAR 7 without answering the question relating to household's receipt of income during the Data Month. The county fails to return the SAR 7 as incomplete. Evidence establishes respondent had income during the Data Month.

HANDBOOK ENDS HERE
