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August 26, 2014

Regulation Package No. 0214-01

CDSS MANUAL LETTER NO. CFC-14-01

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

**Regulation Package #0214-01**

**Effective 7/1/14**

**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>

Senate Bill (SB) 1041 (Ch. 47, Stats. of 2012) replaced the Quarterly Reporting/Prospecting Budgeting (QR/PB) system [later replaced by the Semi-Annual Reporting (SAR) system] with an Annual Reporting system in the California Work Opportunity and Responsibility to Kids (CalWORKs) program for certain CalWORKs child-only cases. These cases are those in which there is no eligible adult in the Assistance Unit and are referred to as Annual Reporting/Child Only (AR/CO) cases.

This manual letter includes the amendments made to the State Hearings Manual (Division 22) as a result of the adoption of the new AR/CO 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 3, 2014.

## 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-13-01.

<u>Page(s)</u>	<u>Replace(s) Page(s)</u>
130 and 131	130 and 131
134 and 135	134 and 135
175.1 and 175.2	175.1 and 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.

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

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- .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, 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.

**22-072**      **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) 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.

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

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**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.

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

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- .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.

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- .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.

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- .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).

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**STATE HEARING AND REQUEST FOR REVIEW**

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

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**22-305 GENERAL PROVISIONS**  
(Continued)

**22-305**

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(a) 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.

(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.

(AR/CO) EXAMPLE: In completing the Statement of Facts (SAWS 2), respondent reports that the family has no income. Respondent also states that no one had started employment in the AR/CO Data Month. County evidence indicates respondent did start working during the AR/CO Data Month, but it was reported that no one had started work. Respondent also did receive earnings in the AR/CO Data Month.

(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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**HANDBOOK CONTINUES**

(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.

(AR/CO) EXAMPLE: Respondent reports on the SAWS 2 that he/she began employment the eleventh month of the AR/CO Payment Period Month and that he/she will be paid every two weeks. Respondent checks the box "No" for income received in the 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.

(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.

(AR/CO) EXAMPLE: Respondent completes the SAWS 2 without answering the question relating to household's receipt of income during the AR/CO Data Month. The county fails to return the SAWS 2 as incomplete. Evidence establishes respondent has income during the Data Month.

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