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Regulation Package #0811-06

CDSS MANUAL LETTER NO. EAS 11-01

TO: HOLDERS OF THE ELIGIBILITY AND ASSISTANCE STANDARDS MANUAL

Regulation Package # 0811-06

Effective 10/24/11

Sections 44-111

This manual letter has been posted on the Office of Regulations Development website at <http://www.dss.cahwnet.gov/ord/PG2836.htm>.

The California Work Opportunity and Responsibility to Kids (CalWORKs) program provides temporary financial assistance and employment-focused services to families with minor children who have income and property below State maximum limits. In determining the eligibility and cash aid amount for a family, income and resources that are available to meet a family's needs are assessed, and based on that determination, eligibility for the CalWORKs program and the amount of cash aid are calculated. State and federal law requires that certain types of income be considered "exempt," and therefore are disregarded when determining eligibility and grant amounts for CalWORKs applicants and recipients.

Federal regulations 45 CFR 233.20(a)(1)(ii) and 45 CFR 233.20(a)(3)(x) state that Adoption Assistance Program (AAP) payments must be disregarded when eligibility and cash aid amounts are calculated for programs administered under Title IV-A of the Social Security Act, such as the CalWORKs program.

In February 2011, the California Department of Social Services (CDSS) entered into a settlement agreement in the court case *Cadaret v. Wagner*, agreeing to promulgate regulations specifically excluding AAP payments from being considered as available income in CalWORKs eligibility determinations and grant calculations. CDSS agreed to put into text in the Manual of Policies and Procedures (MPP) what already has been the longstanding policy in the CalWORKs program of excluding AAP payments when determining eligibility and grant amounts for CalWORKs applicants and recipients.

CDSS policy instructs counties to disregard certain types of income excluded by federal law. Currently MPP Section 44-111.61 reads in part, "Income which is mandatorily exempt under federal law includes but is not limited to..." and provides examples of income that are to be excluded by federal law. The regulations did not intend to provide

an exhaustive listing of federally exempted income, and AAP payments were not overtly specified in this list. To further clarify the regulation and to abide by the terms of the Cadaret v Wagner settlement agreement and court order, CDSS is revising the regulation to add AAP payments to the list of excluded sources of income.

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 Eligibility and Assistance Standards Manual changes was EAS-10-06.

Page(s)

Replace(s)

396 and 397

Pages 396 and 397

Attachment

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44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION AS INCOME (Continued) 44-111

- j. PL 101-201 and PL 101-239 which exempt payments received from all Agent Orange settlements.
- k. PL 101-426 which exempts payments received under the Radiation Exposure Compensation Act.
- l. PL 101-508 which exempts Earned Income Credit (EIC) payments.
- m. PL 103-286 which exempts payment received as restitution made to victims of Nazi persecution.
- n. Payments received from any federal, state, or local Adoption Assistance Program.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, 11008.15, 11265.2, 11280, 11322.6(f)(3), 11157 (Ch. 439, Stats. of 2002), 11450.5, 11450.12, 11451.5, and 11451.7, Welfare and Institutions Code; 42 USC Section 602(g)(1)(E)(i); Section 8, Public Law 93-134; Section 2, Public Law 98-64; Section 13736, Public Law 103-66; Section 1, Public Law 100-286, Section 202(a), Public Law 100-485 and 20 USC 1087uu; 45 CFR 233.20(a)(3)(iv)(B), (a)(3)(xxi), 45 CFR 233.20(a)(4)(ii); (a)(4)(ii)(d); 45 CFR 233.20(a)(4)(ii)(p) and (q); 45 CFR 233.20(a)(11)(v)(C); 45 CFR 255.3(f)(1); 45 CFR 400.66; 45 CFR 401.12; Federal Action Transmittals ACF-AT-94-27 and 94-4 and FSA-IM-89-1; 45 CFR 233.20(a)(1)(ii) and 45 CFR 233.20(a)(3)(x) and *Cadaret v. Wagner* (Super. Ct. Sacramento County, 2011, No. 34-2009-80000302, Stipulation for Settlement and Order).

44-113 NET INCOME 44-113

.1 Property

Net income from property (including that from property in which a life estate is held), produce or business enterprises is determined by deducting from gross income all normal items of expenses incident to its receipt. Principal payments on encumbrances are not considered a necessary item of expense. If property is sold, the interest portion of any payment received is income.

Interpretation -- Net income from property, crops and livestock is computed as follows:

Source	Computation
a. Rental of real property including that in which life estate held.	Deduct from gross rental the following expenses incident to receipt: <ul style="list-style-type: none"> 1. Taxes and assessments.

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2. Interest on encumbrance payments (do not deduct principal payments).
3. Insurance.
4. Utilities.
5. Upkeep and major repairs.

If a complete dwelling unit is rented the county after consultation with the recipient (a) deducts the amount actually expended each month for upkeep and repairs; or (b) deducts 15% of the gross monthly rental plus \$4.17 a month.

Note: The above expenses are prorated on the same periodic basis as the periodic basis on which the rental is received (i.e., annually, quarterly, monthly, etc.). Multiply rental income received weekly by 4-1/3 to get monthly income.

Note: Under the ordinary life estate agreement, the life tenant is entitled to the use and/or income from the property and is responsible for the usual costs of ownership such as taxes, insurance, upkeep, etc. However, if the life estate agreement stipulates the remainderman is responsible for certain expenses, such payments do not represent income to the life tenant.

b.	Rental of rooms and Room and Board	See Section 44-113.212 for computing self-employment net income.
c.	Sale of real property under contract of sale, title not passing.	The interest received is net income (principal payments represent conversion of property from real to personal property). Deduct any interest payments on prior encumbrances in determining net income from interest received from sale of real property under contract of sale.
d.	Personal property (rental of trucks, equipment, etc.)	Deduct from gross rental all expense necessary to maintenance, etc.
e.	Personal property (interest on money, stocks, bonds, etc.)	All interest received is net income, except interest on savings accounts as provided in W&IC 11009.