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Regulation Package No. 1211-09

CDSS MANUAL LETTER NO. EAS 12-03

TO: HOLDERS OF THE ELIGIBILITY AND ASSISTANCE STANDARDS MANUAL

Regulation Package # 1211-09

Effective 12/1/12

Sections 42-213 and 44-211

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

Current law imposes limits on the amount of income and personal and real property, including savings accounts, that an individual or family may possess in order to be eligible for aid under the CalWORKs program, but authorizes an eligible family to retain savings and interest thereon for specified purposes. Existing law also provides for the payment of an allowance for nonrecurring special needs after a family has used all available liquid resources, both exempt and nonexempt, in excess of \$100.

Senate Bill (SB) 1341 (Chapter 485, Statutes of 2008) expanded the scope of purposes for which eligible savings may be used to include costs associated with securing permanent rental housing or to make rent payments to overcome an episode of homelessness. SB 1341 also exempts funds deposited into an individual's specified restricted account when determining eligibility for a special needs payment.

These amended regulations amend specific provisions that regulate personal property to be excluded while receiving benefits under the CalWORKs Program.

These regulations were considered at the public hearing held on July 11, 2012.

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-12-02.

<u>Page(s)</u>	<u>Replace(s) Page(s)</u>
178.2 through 181 435 and 436 456 and 457	178.2 through 181 435 and 436 456 and 457

Attachment

EV

42-213 **PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY** **42-213**
WHICH MAY BE RETAINED (Continued)

(d) Specific Purpose

The funds must be retained for one or more of these specific purposes:

(1) Home

purchase of a home;

(2) Education or Training

any education or vocational training expenses of the account holder or any person who is claimed or could be claimed by the account holder as a dependent for federal income tax purposes;

(3) Business

start up of a new business; or

(4) Homelessness Prevention

Costs associated with securing permanent rental housing or to make rent payments to overcome a period of homelessness.

(e) Separate Account

The AU must establish and maintain a restricted account separately from any other accounts.

(f) Interest Exemption

The county shall exempt interest payments for purposes of determining CalWORKs eligibility and grant amount when the interest is deposited directly into the account by the financial institution.

(1) Direct Receipt

The county shall determine that interest which is not deposited directly into the restricted account is a nonqualifying withdrawal.

(2) Erroneous Receipt

When interest is not deposited directly into the account due to an error caused by the financial institution, the AU is allowed 30 calendar days from the date of receipt to deposit the interest into the restricted account.

42-213 **PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY** **42-213**
WHICH MAY BE RETAINED (Continued)

(A) Failure to deposit the interest within 30 calendar days shall result in a determination that a nonqualifying withdrawal has occurred, unless good cause exists for exceeding the 30-day limit as specified in Section 42-213.231(j).

(g) **Qualifying Withdrawal**

The AU is allowed 30 calendar days from the date of a withdrawal to expend funds for one or more of the following expenses:

(1) **Purchase of a Home**

Expenses associated with the purchase of a home that will be the principal residence of the AU.

(A) These expenses include, but are not limited to, deposits, fees, down payment, principal payment, repairs, fixtures and closing costs.

(B) Expenses for furniture and household goods are not allowable.

(2) **Education or Training**

Expenses associated with any education or vocational training for the account holder or any person who is or could be claimed by the account holder as a dependent for federal income tax purposes.

(A) These expenses include, but are not limited to, the following:

1. fees, tuition, books, school supplies, equipment, special clothing needs, student housing, meals, transportation costs to and from school, child care services necessary for school attendance.

(3) **Start Up of a New Business**

Business expenses that are directly related to the start up costs of a new business.

(A) Allowable expenses shall include, but are not limited to, the following:

42-213 **PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY** **42-213**
WHICH MAY BE RETAINED (Continued)

1. purchase and maintenance of capital equipment, uniforms or other protective or required clothing and shoes; tools; inventory; payments on loan principal and interest for capital assets or durable goods; rent for office or floor space and associated utilities; shipping and delivery costs; employee salary; fees; business taxes; insurance; and bookkeeping or other professional services.

(B) Personal expenses such as entertainment are not allowable.

(4) Homelessness Prevention

Allowable expenses shall include, but are not limited to, first and last month's rent, other deposits required under the rental agreement, and credit check fees.

(5) No Expense Incurred

Funds, which are withdrawn in anticipation of an expense that does not occur or are less than anticipated, shall be redeposited into the restricted account within 30 calendar days from the date of the withdrawal.

(A) Failure to timely redeposit the funds shall result in a determination that a nonqualifying withdrawal has occurred, unless good cause exists as specified in Section 42-213.231(j).

(h) Verification

The AU shall provide verification of the following items within 30 calendar days from the date of expenditure:

(1) Date and Amount

date and amount of the withdrawal; and

(2) Receipts

a receipt, cancelled check, or signed statement from the provider of goods or services which verifies the type and the amount of expense paid.

42-213	PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY WHICH MAY BE RETAINED (Continued)	42-213
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(i) Nonqualifying Withdrawal

The county shall determine that a nonqualifying withdrawal has occurred when:

(1) Noncooperation

the AU fails to expend funds or to provide verification of a withdrawal or expenditure within the required time limit unless good cause, as specified in Section 42-213.231(j), exists for exceeding the time limit;

(2) Nonallowable Purpose

the AU withdraws or spends the funds for purposes or expenses other than those allowed under Section 42.213.231(g); or

(3) Receipt of Interest Income

the interest payment was not deposited directly into the account by the financial institution.

(j) Good Cause

The county shall determine that good cause exists for exceeding the time limits specified at Sections 42-213.231(f)(2), (g), and (h) when any of the following situations exist.

(1) Beyond AU's Control

Circumstances exist which are beyond the AU's control.

(A) These circumstances include, but are not limited to, illness or medical emergency, failed or delayed completion of a home purchase, lack of transportation, or other extenuating circumstances found by the county.

(B) When good cause is found to exist, the AU will be allowed to fulfill the necessary requirement within a reasonable period of time based on the circumstances for the delay, as determined by the county, to avert a determination of a nonqualifying withdrawal.

42-213 **PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY** **42-213**
WHICH MAY BE RETAINED (Continued)

(2) AU Complies Before the Effective Date of the Notice

Good cause also exists when the AU complies with the necessary requirement before the effective date of the notice of action. In these situations, the county shall rescind the notice of action.

(k) Period of Ineligibility

When the county determines that a nonqualifying withdrawal exists, the county shall calculate a period of ineligibility.

(1) Calculation

To calculate the period of ineligibility, the county shall first determine the total amount in all of the restricted accounts immediately prior to the nonqualifying withdrawal or prior to the issuance of an interest payment when it is not directly deposited into the account by the financial institution, and:

- (A) subtract any portion which the county determines to be a qualifying withdrawal;
- (B) divide the result by the minimum basic standard of adequate care (MBSAC) for the number of persons in the AU, plus any special needs; and
- (C) round down the result to the nearest whole number for the number of months of ineligibility.

(l) Applying the Period of Ineligibility

Section 42-213.231(l)(MR) shall become inoperative and Section 42-213.231(l)(QR) shall become operative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's QR/PB Declaration.

(MR) When the county determines that a period of ineligibility is applicable, the period of ineligibility shall begin on the first day of the month following the nonqualifying withdrawal.

(QR) When the county determines that a period of ineligibility is applicable, the period of ineligibility shall begin on the first day of the month of the next QR Payment Quarter following the reported nonqualifying withdrawal on the QR 7 and continue for the determined number of months.

42-213 **PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY** **42-213**
WHICH MAY BE RETAINED (Continued)

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(m) Examples

(1) Example 1:

An AU of three is in an April/May/June Quarter.

Bank balance prior to May withdrawal:	\$5,000
Amount withdrawn from account:	\$4,500
Amount used to purchase home:	\$3,000
Amount used to buy furniture:	\$1,500

(A) Since the AU used a portion of the withdrawal on a nonallowable expenditure, the county shall calculate a period of ineligibility as follows:

1. \$5,000 balance prior to withdrawal
 -3,000 allowable expense for purchase of home
 \$2,000 remainder
2. Divide the remainder (\$2,000) by MBSAC + special needs for an AU of three
 (\$2,000 divided by \$891 = 2.24 months)
3. Round down the result to the nearest whole number (two months).
4. The AU is ineligible for two months. The AU shall be discontinued at the end of June. The AU can reapply for aid on September 1.

Example 2: An AU of three is in the April/May/June Quarter and has the following property:

\$ 100 checking account
+1000 restricted account
<u>+ 800</u> savings account
\$ 1900 Total

(A) The AU wants to buy new furniture and withdraws all of their funds from their accounts, including the restricted account, to pay for the purchases in May. The county determines that the AU made a nonqualifying withdrawal.

HANDBOOK CONTINUES

42-213 **PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY** **42-213**
WHICH MAY BE RETAINED (Continued)

HANDBOOK CONTINUES

(B) Although the AU's total property reserve prior to the nonqualifying withdrawal is under the \$2,000 property limit, the county will calculate a period of ineligibility as follows:

1. Balance prior to nonqualifying withdrawal in May \$1000
2. Divide by MBSAC for 3 (\$715)
3. Result 1.3
4. Round down to nearest whole number 1
For number of months of ineligibility

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(n) Shortening The Period of Ineligibility

The county shall shorten the period ineligibility when the AU reapplies for aid and the standard of need increases.

(1) An increase in the standard of need includes any increase in AU size, general increase in the MBSAC (COLA increases), or a determination that the ineligible family would be eligible for a special need item as specified in Section 44-211.

(2) Calculation

To shorten the period of ineligibility due to an increase in the standard of need, the county shall:

- (A) Identify the restricted account balance used to calculate the original period of ineligibility.
- (B) Identify the original MBSAC plus any special needs allocated to the ineligible family unit and multiply it by the number of ineligible months prior to the increase. Subtract the total from the amount in Section 42-213.231(n)(2)(A).
- (C) Divide the result calculated in Section 42-213.231(n)(2)(B) by the increased standard of need. Round down the result to the nearest whole number.

42-213 PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY WHICH MAY BE RETAINED (Continued) **42-213**

- (D) The revised period of ineligibility is the final result in Section 42-213.231(n)(2)(C) plus the number of ineligible months prior to the increase.
- (E) The revised period of ineligibility shall begin in the same month as the original period of ineligibility.

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(3) Example

An AU of two is in a period of ineligibility due to a nonqualifying withdrawal. The pertinent facts of the period of ineligibility are as follows:

- (A) \$ 2000 original balance used to calculate the period of ineligibility
- \$ 576 original MBSAC
- 3 number of months of ineligibility
- January first month of ineligibility

The AU size increased to three people in February and the need standard increased to \$715.

- (B) \$2000 original balance
- 576 MBSAC for one month of ineligibility
- \$1424 result; divide by increased MBSAC for 3 (\$715)
- 1.99 result
- 1 number of ineligible months after increase (rounded down)

- 1 number of months before increase
- + 1 number of months after increase
- 2 revised period of ineligibility (number of months)

The prior period of ineligibility has been reduced from three months to two months; January and February are the ineligible months.

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42-213 **PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY** **42-213**
WHICH MAY BE RETAINED (Continued)

- (o) Establishing a Separate AU for Other Eligibles

A separate AU may be established for an otherwise eligible person whose needs were not considered in the calculation of the period of ineligibility.

- (p) Termination of the Written Agreement

The written agreement for the restricted account terminates when:

- (1) the AU is discontinued from CalWORKs; or
- (2) the restricted account is closed; or
- (3) the AU does not provide timely verification of the account information as specified in Section 42-213.213(c); or
- (4) state or federal law changes the conditions or no longer permits these restricted accounts.

.3 A home, regardless of its value, occupied by the assistance unit shall be excluded in evaluating property which may be retained.

.31 Any house, mobile home, camper, trailer, houseboat or any other dwelling whether assessed as real or personal property by the county assessor is excluded if such an item or property is occupied by the AU as a home (place of residence). Property shall continue to be considered the home during temporary absence for reasons such as illness, seasonal employment, visits, extreme climatic conditions, etc., provided the recipient plans to, and it appears will be able to, return to the home when such circumstances no longer exist.

42-213 **PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY** **42-213**
WHICH MAY BE RETAINED (Continued)

- .32 The excluded home may be the unit of a multiple-dwelling unit that is occupied by the assistance unit as a home. A home and a separate unit adjacent to the home shall be treated as a multiple dwelling unit.

- .321 The unit(s) of the multiple dwelling that is (are) not occupied by the assistance unit shall be treated as a resource and the value must be included in the property limit described in Section 42-207. See Section 42-215 for the method of determining the value of real property.
 - (a) If the assistance unit is making a good faith effort to sell the unit(s) that is (are) not occupied as a home, the unit(s) may be exempt from consideration in the resource limit for a period of time under the conditions specified in Section 42-213.12.

 - (b) If the unit(s) that is (are) not occupied as a home cannot be sold separately, the unit(s) is (are) unavailable to meet current needs and shall be excluded in evaluating property. (See Section 44-113.1 for the treatment of income received from the rental of real property.)

- .4 The home which was the usual home of an applicant/recipient who has entered into marital separation shall be treated as follows:
 - .41 The usual home shall be exempt in determining an applicant's eligibility for CalWORKs and for three months following the end of the month in which aid begins.

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See Section 44-317.

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- .411 Section 42-213.411(QR) shall become operative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's QR/PB Declaration.

- (QR) If the exemption period ends mid-quarter, the county shall not act on the information during the QR Payment Quarter. The usual home shall be used to determine eligibility for the QR Payment Quarter following the QR Payment Quarter in which the exemption period ended.

- .42 The usual home shall be exempt in evaluating a recipient's retained property during the month of separation and for three months following the end of the month in which the separation occurs.

42-213 **PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY** **42-213**
WHICH MAY BE RETAINED (Continued)

- .421 Section 42-213.421(QR) shall become operative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's QR/PB Declaration.

- (QR) If the exemption period ends mid-quarter, the county shall not act on the information during the QR Payment Quarter. The usual home shall be used to determine eligibility for the QR Payment Quarter following the QR Payment Quarter in which the exemption period ended.

- .43 The applicant/recipient shall be informed when the exemption is granted that it is time-limited and that the expiration of the three month period may result in ineligibility.

- .44 See Sections 42-213.3 and 42-201.1 for situations which require the home to remain excluded from property evaluation following the three month exemption period.

- .5 Other property which is mandatorily and specifically exempt by federal law and shall be exempt from the effective date as specified in federal law.
 - .51 Property which is mandatorily exempt under federal law includes, but is not limited to:
 - .511 Public Law (PL) 92-254 or PL 94-540 which exempts any funds distributed per capita or held in trust for members of any Native American tribe under PL 92-254 or PL 94-540.

 - .512 PL 93-134, PL 97-458 and PL 98-64 which exempt as property the funds of Native American tribes including interest earned from, investment income derived from and initial purchases made with such funds when the funds have been:
 - (a) Distributed by the Secretary of the Interior on a per capita basis; or
 - (b) Held in trust by the Secretary of the Interior; or
 - (c) Individually owned trusts or restricted lands.

 - .513 PL 100-241 which exempts distributions to a household, individual Native or descendent of a Native when received from a Native Corporation established pursuant to the Alaskan Native Claims Settlement Act (ANCSA). Exempt distributions include:
 - (a) Cash (including cash dividends on stock received from a Native Corporation) to the extent it does not exceed \$2,000 total per person per anum, stock, a partnership interest, land or interest in land, and interest in a settlement trust.

42-213	PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY WHICH MAY BE RETAINED (Continued)	42-213
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- .514 PL 100-383 which exempts payments received as restitution made to U.S. citizens and permanent resident aliens of Japanese ancestry, and payment received as restitution made to Aleuts as a result of being relocated by the United States government during World War II.

- .515 PL 100-707 which exempts federal major disaster and emergency assistance provided under the Disaster Relief Act and comparable disaster assistance provided by the state, local governments and disaster assistance organizations.

- .516 PL 101-201 and PL 101-239 which exempt payments received from all Agent Orange settlements.

- .517 PL 101-426 which exempts payments received under the Radiation Exposure Compensation Act.

- .518 PL 101-508 which exempts Earned Income Credit (EIC) payments for the month it is received and the following month.

- .519 PL 103-286 which exempts payments received by victims of Nazi persecution.

NOTE: Authority cited: Sections 10553, 10554, 10604, and 11155.2, Welfare and Institutions Code. Reference: Sections 10553, 10554, 11155, 11155.2, 11155.5, 11257, 11265.1, 11265.2, 11450, and 11450.5, Welfare and Institutions Code; Sidwell v. McMahan, United States District Court (E.D. Cal.) May 7, 1990, civil no. S-89-0445; Public Laws 97-458, 98-64, and 103-286; and Federal Action Transmittal 91-23, 45 CFR 233.20(a)(3)(i)(B).

42-215	DETERMINING VALUE OF PROPERTY	42-215
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.1 Determination of Value of Real Property

For determination of CalWORKs eligibility, an applicant or recipient's net market value interest in real property is determined by subtracting any allowable encumbrance against it from its market value (42-215.21).

- .11 Acceptable evidence of allowable encumbrances on real property are listed below:
- (a) Mortgages

 - (b) Notes

 - (c) Deeds of trust

44-211 SPECIAL NEEDS IN CALWORKS (Continued) 44-211

- .222 The actual cost of special laundry. The county may allow \$3.00 per month without verification of actual cost by the recipient. An example of special laundry needs would be where a recipient is required to change and clean bedding or clothing more than usual because of a medical condition.
- .223 The actual cost of employing someone to do the cooking, washing, ironing, household cleaning, and similar chore services for members of the FBU when the county verifies that the family caretaker is unable to perform any one or more of these functions, and that such duties cannot be performed without charge by persons in the household.
- .224 The actual cost of special telephone service or equipment such as the cost of an amplifying device when a member of the household is handicapped by an auditory impairment.
- .225 The actual costs of excessive use of utilities when the county verifies that the excessive use is required for a reason not common to a majority of recipients and is essential for their support. Excessive use of utilities means the FBU's share of the actual cost of utilities is in excess of the in-kind income values for utilities for that size FBU. The county may allow \$5.00 per month without verification of actual cost by the recipient.
- .23 Where a recurring special need also qualifies as an allowable service-connected expense pursuant to Section 10-305 or Chapter 30-500, the county may authorize any combination of such funds to meet the family's needs so long as there is no duplication in aid payment. When a special need is to be met from a combination of such funds, the allowance must be based on the actual costs and not the guidelines specified above.
- .3 Nonrecurring Special Need Payments
 - .31 A payment for a nonrecurring special need shall be granted to an eligible AU when any of the following conditions exist:
 - .311 Household emergencies resulting from sudden and unusual circumstances beyond the AU's control. (See MPP 44-211.4.)
 - .312 Homelessness when the AU is seeking permanent housing. (See MPP 44-211.5.)
 - (a) Repealed by Manual Letter No. EAS 06-03, effective 11/16/06

44-211	SPECIAL NEEDS IN CALWORKS (Continued)	44-211
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- .32 An AU is ineligible to receive a nonrecurring special need payment if it has over \$100 in nonexempt liquid resources with the exception of funds deposited in a restricted account described in Section 42-213.231.

- .321 The county shall evaluate nonexempt liquid resources when an AU requests a nonrecurring special need payment for any of the following:
 - (a) An emergency resulting from sudden and unusual circumstances beyond the AU's control (see Section 44-211.4);
 - (b) Homeless assistance, at the time the AU applies for such assistance but not during the incident of homelessness as defined in Section 44-211.513(b).

- .33 Liquid resources of \$100 or less shall not be considered for purposes of computing the nonrecurring special need payment.

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See MPP 42-211.2 for definition of liquid resources; see MPP 40-129.21 for exceptions to the MPP 42-211.2 definitions.

HANDBOOK ENDS HERE

- .4 Emergencies Resulting from Sudden and Unusual Circumstances Beyond the AU's Control
 - .41 An AU is entitled to receive a nonrecurring special need payment to repair or replace clothing or household equipment; to provide assistance for damages to the home; or to pay for interim shelter when the AU's home was destroyed or made uninhabitable or inaccessible. (See MPP 44-211.42, .43, and .44 respectively.)
 - .411 The loss or damage must have been caused by sudden and unusual circumstances beyond the AU's control.
 - .412 The CWD shall determine the most feasible and economic method of repair or replacement including the provision of donated or used serviceable items.

44-211	SPECIAL NEEDS IN CALWORKS (Continued)	44-211
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.65 A pregnancy special need payment is \$47 per month.

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NOTE: Authority cited: Sections 10553, 10554, 10604, 11209, and 11450(f) and (g), Welfare and Institutions Code. Reference: Sections 11056, 11155.2(a), 11265.1, 11265.2, 11265.3, 11266(a)(2), 11271, 11272, 11273, and 11273(b), 11450(a)(1), (b), (c), and (f), 11450(f)(2)(A)(i), 11450(f)(2)(B), 11450(f)(2)(C), 11450(f)(2)(E)(i), (ii), (iii), (v), and (vi), 11450.5, 11452.018(a), and 11453.2, Welfare and Institutions Code; 45 CFR 206.10(a)(1)(ii), 45 CFR 206.10(a)(8), 45 CFR 233.10(a)(1)(iv), 45 CFR 233.20(a)(2)(v)(A), 45 CFR 234.11, 45 CFR 234.60; and 42 U.S.C.A., Section 606(b).

44-212	MINIMUM BASIC STANDARD OF ADEQUATE CARE	44-212
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.1 Definition -- The Minimum Basic Standard of Adequate Care is set forth in W&I Code Section 11452, as the amount which is necessary to provide an Assistance Unit with the following:

.11 Housing

.12 Clothing

.13 Food

.14 Utilities

.15 Items for household operation, education and incidentals, recreation, personal needs, and insurance.

.16 Essential medical, dental, or other remedial care not otherwise provided at public expense

.17 Has been deleted per Manual Letter No. 77-045.

.2 The Minimum Basic Standard of Adequate Care set forth in Welfare and Institutions Code Section 11452 and previously distributed to the counties for each size AU (see Chapter 82-800 for composition of the AU) is in Section 44-207.212.

NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code. Reference: 45 CFR 233.20(a)(1)(i) and Sections 10553, 10554, and 10604, Welfare and Institutions Code.

44-213	MEDICAL NEEDS - GENERAL	44-213
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Repealed by Manual Letter No. EAS-87-08, effective 8/6/87.

44-215	PERSONS WHO DO NOT MEET REQUIREMENTS FOR INCLUSION IN THE FAMILY BUDGET UNIT	44-215
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Repealed by Manual Letter No. EAS-87-08, effective 8/6/87.

44-217	SUBSTANDARD HOUSING	44-217
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Repealed by Manual Letter No. EAS-87-08, effective 8/6/87.

44-223	A MOTHER IN A MATERNITY HOME	44-223
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Repealed by Manual Letter No. EAS-87-08, effective 8/6/87.

44-267	SPECIAL NEED PAYMENT FOR CHILD'S RETURN HOME FROM FOSTER CARE	44-267
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Repealed by Manual Letter No. EAS-91-14, effective 10/1/91.

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