

**40-118 WHO MUST BE INCLUDED ON THE STATEMENT OF FACTS (FILING UNIT) 40-118**

- .1 Mandatory Inclusion 

The applicant shall include the following persons if living in the home on the applicable Statement of Facts:

  - .11 Applicant Child 

An applicant child, and
  - .12 Siblings 

Children who are siblings or half-siblings of the applicant child, and
  - .13 Parents 

The parents of any child listed above, or
  - .14 Pregnant Woman 

A pregnant woman, in a one-person AU, or
  - .15 SSI/SSP Child 

The caretaker relative, stepparent, and second parent of an SSI/SSP child when aid is requested.
  - .16 GAIN Sanctioned Child 

The caretaker relative, stepparent, and second parent of a child who is sanctioned by the GAIN program.
  - .17 

Senior Parent.
  - .18 

Sponsor of an alien.
  - .19 

Spouse of persons mandatorily included in the filing unit.
- .2 Optional Persons 

Applicants shall include optional persons, including an ASP, on the applicable Statement of Facts when aid is requested for them.
- .3 Relinquishment 

Biological relatives of a child are not required to be included on the Statement of Facts when the child has been relinquished for adoption or parental rights are terminated, but the child has not been adopted.

**40-118 WHO MUST BE INCLUDED ON THE STATEMENT OF FACTS (FILING UNIT) (Continued)** **40-118**

- .4 County Responsibility  
The county shall determine whether the appropriate persons are included on the applicable Statement of Facts.
- .41 Deny Application  
The county shall deny the application, redetermination, request to add a person, or request for restoration whenever the applicant refuses to include any persons listed in .1 on the applicable Statement of Facts.
- .42 Deny Persons  
The county shall deny aid for optional persons whenever the applicant refuses to include the optional person on the applicable Statement of Facts.

NOTE: Authority cited: Sections 10553, 10554 and 10604, Welfare and Institutions Code. Reference: 45 CFR 206.10(a)(1)(vii), 45 CFR 206.10(a)(5)(i), and 45 CFR 233.90(c); SSA-AT-86-01; Civil Code 224m and 229; 42 USCA 602(a); Zapata v. Woods (1982) 187 Cal. Rptr 351, 137 C.A. 3d 858.

**40-119 HOW AND WHERE APPLICATION IS MADE** **40-119**

- .1 New Applications  
The county shall accept an application made by the applicant in writing on the SAWS 1 when made in the county in which the applicant lives. When an applicant applies in another county, the county receiving the SAWS 1 shall forward the SAWS 1 to the county in which the applicant lives. The beginning date of aid is the date the first county received the completed SAWS 1. The first county shall date stamp the completed SAWS 1 upon receipt.

**40-121**      **COMPLETING THE APPLICATION** **40-121**

- .1      Date of Application                      The date of the application for aid is the date on which the written application for aid is received by the county.
  
- .2      Recording the Application                The application shall be recorded at the time the applicant, or someone properly acting on his/her behalf first requests aid as provided in Section 40-119. Exceptions to this requirement are:
  - .21    When an application or request for restoration has been denied and corrective action is to be taken, aid is then granted on the same application or request for restoration which was previously denied. (See Section 44-317.8.)
  
  - .22    When granting of aid is ordered by SDSS following a state hearing.
  
- .3      The Application Form                      The county shall provide a copy of the completed SAWS 1 to the applicant at the time he/she applies. An application shall not be required for:
  - .31    (Reserved)
  
  - .32    A transfer between AFDC-FG and U or vice versa, or AFDC-FG/U and FC or vice versa. (See Section 40-183.)
  
  - .33    Any intercounty transfer. (See Section 40-187.)

<b>40-125</b>	<b>REAPPLICATIONS, RESTORATIONS, AND COUNTY OF RESPONSIBILITY (Continued)</b>	<b>40-125</b>
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.7 California Youth Authority Parolees

In AFDC the cost of care of California Youth Authority parolees in foster homes is normally the responsibility of the CYA even though the child may be eligible to AFDC. However, the CYA does not have the means of providing support for the children of a parolee mother even though she is living in a boarding home. In such cases, the county should accept and process the application for the parolee mother's children. If they are found eligible, the caretaker mother is included in the AFDC grant as a needy parent.

Financial responsibility for eligible Youth Authority wards who are living in their own homes or with relative is also carried by the county under the AFDC program.

.8 Child Receiving AFDC-FC

.81 A child residing in a family home or group home as a result of placement by a public agency, or by a private agency which has legal custody because the child has been relinquished to them or a court has given them legal custody, is considered to make his/her home in the county in which the agency is located, regardless of whether the family home or group home is situated in that county.

.811 For purposes of this section, a public or private agency shall be considered to have placed the child in a family home or group home if the agency:

<b>40-125</b>	<b>REAPPLICATIONS, RESTORATIONS, AND COUNTY OF RESPONSIBILITY (Continued)</b>	<b>40-125</b>
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- a. Actively participated in making the decision as to whether or not the child was to be placed; and
  - b. Initiated the placement of the child, either through direct negotiations with the family home or group home or by requesting help in making the placement from the county in which the family home or group home is located.
- .82 The county of responsibility for a child accepted for voluntary placement by a county welfare department or a licensed public or private adoption agency is the county in which the agency which accepted the voluntary placement is located.
- .83 The agency making or desiring to make a placement in a county other than the one in which the responsible agency is located, may request a service evaluation of the placement home by the county in which the home is located.
- .84 Where an agency has placed a child in foster care, and at time of placement or subsequent thereto a court of competent jurisdiction in a county other than that in which the placing agency is located accepts responsibility for the child, the county shall initiate an intercounty transfer of the child's AFDC-FC case to the county in which the court is located.
- .841 The receiving county accepts responsibility for the child when it receives and files the order to transfer in its respective court.

**40-126 PROCESSING APPLICATIONS** **40-126**

- .1 Promptness Requirement

The determination of eligibility, including the gathering of any necessary evidence, shall be completed promptly. One of the following must be mailed within 45 calendar days starting with the first day after the filing of the application: an aid payment, a notice of denial, or a notice that the applicant is eligible.
  
- .11 Inability to Complete the Determination of Eligibility

Inability to complete the determination of eligibility within the 45-day period shall not be a basis for denying the application unless the delay is caused by the refusal of the applicant to participate in the gathering of evidence in accordance with Section 40-157. (See Section 40-171.11.) The specified time limit may be exceeded in situations where completion of the determination of eligibility is delayed because of circumstances beyond the control of the agency, in which instances the case record shows the cause for delay. These instances include:

  - .111 Inability on the part of the recipient to provide necessary clarification.
  - .112 Failure or delay on the part of an examining physician to provide all needed information.
  - .113 Application is made prior to the date on which the applicant meets the eligibility requirements and the 45-day period terminates before the applicant meets such requirements. (See Section 40-171 regarding application held pending eligibility.)
  
- .2 (Reserved)
  
- .3 Requirements for Obtaining Evidence
  - .31 Require Only Evidence of Eligibility

The county shall require only evidence necessary to determine past or present eligibility for the amount or delivery of aid.

**40-126 PROCESSING APPLICATIONS (Continued)****40-126**

.32 Notice of Required  
Evidence

Within ten calendar days of application, the county shall provide written notice to the applicant of the required evidence and examples of alternative evidence, if any, to determine eligibility.

.321

The ten-day requirement shall be waived if the applicant fails to attend the scheduled interview or if the applicant requests that the interview be delayed beyond ten calendar days following application.

.33 Assist the Applicant in  
Obtaining Evidence

.331 Good Faith Effort

The county shall assist the applicant in obtaining evidence of eligibility from a third party when the county has determined that the applicant has made a good faith effort to obtain the evidence and the third party fails or refuses to provide the evidence.

(a)

A "good faith effort" means that the applicant has attempted to comply within the limits of his/her resources.

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(b)

An applicant needs evidence showing the amount in a bank account to complete the AFDC application. The applicant lacks the evidence. The applicant goes to the bank and discovers that the bank will charge a fee to provide the applicant with the evidence. The applicant has no money to pay the fee. The applicant returns to the county and asks that the county help get the evidence. The applicant has made a good faith effort to obtain the evidence.

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**40-126 PROCESSING APPLICATIONS (Continued) 40-126**

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|------|--|---|
| .332 | Third Party Fees   | If necessary, the county shall pay a third party fee to obtain existing evidence of eligibility on behalf of the applicant.   |
| .333 | Notice Requirement   | The county shall notify the applicant, in writing, of the requirements of Section 40-126.33 at the time that such evidence is requested.  |
| .334 | Document Failure to Make Good Faith Effort                           | The county shall document an applicant's failure to make a good faith effort in obtaining necessary evidence of eligibility in the case file.   |
| .34  | Cooperation in Providing Evidence of Eligibility                     | The county shall not deny an application for failure to provide evidence of eligibility if the county has determined that the applicant is continuing to cooperate by attempting to comply in obtaining necessary evidence. |
| .341 | Denial for Failure to Cooperate in Providing Evidence of Eligibility | A denial due to failure to cooperate shall be made when a presumption of noncooperation has been established by the county but an act of refusal has not occurred.  |

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**HANDBOOK BEGINS HERE**

- (a) An applicant owns property which may cause the family to exceed the AFDC property limits. The applicant is told that evidence of the value of the property will be required to establish eligibility for aid. The applicant states that he/she must obtain the needed information from another state. The applicant is given an appointment in two weeks at which time he/she is expected to have the needed evidence. The applicant misses the appointment and does not call.

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**HANDBOOK CONTINUES**

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**40-126 PROCESSING APPLICATIONS (Continued) 40-126**

- .344 Failure Versus Refusal to Cooperate
- (a)
- The provisions of Sections 40-126.341 and .342 shall not apply to applications which are denied based on the applicant's refusal to cooperate pursuant to Section 40-157.3.
- A denial based on refusal to cooperate shall only be made as the result of the applicant's active refusal either orally or in writing to cooperate in the investigation of eligibility.

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Example

- (b)
- An applicant owns property which may cause the family to exceed the AFDC property limits. The applicant is told that evidence of the value of the property will be required to establish eligibility for aid. The applicant states that the value of the property is irrelevant to his current need and states that he will not provide any additional information. The application is denied due to refusal and the provisions of Sections 40-126.341 and .342 would not apply.

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- .35 Retrieve Case File
- The county shall retrieve and examine those existing case files which are in the possession of the county or its agents, in a timely manner, to determine if needed evidence of eligibility is already in the possession of the county when:
- .351 Within One Year
- An applicant applies within one year of the effective date of discontinuance of aid, and
- .352 Reasons
- The applicant is unable to provide the needed evidence of eligibility due to one of the following:
- (a)
- The applicant does not have easy access to the needed evidence; or

**40-126 PROCESSING APPLICATIONS (Continued) 40-126**

(b) There is a cost associated with obtaining the evidence;  
or

(c) The time needed to obtain the evidence would delay  
the application.

.36 Evidence Not in Case File  
The county shall not be required to examine the existing case file if it would be unreasonable for the evidence to be in the possession of the county because the circumstances for which the verification is needed did not exist during the period the applicant previously received aid.

.361 This evidence includes, but is not limited to, verification of circumstances which can change such as earnings and bank accounts, and evidence of eligibility relating to an individual not previously in the assistance unit.

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.362 Example:  
A family was discontinued from aid in November. In January a second child is born. The family reapplies for aid the following May. It would be unreasonable to expect the birth certificate of the second child who was born after the family was last on aid to be in the possession of the county.

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.37 Notice Requirements  
At the time an applicant described in Sections 40-125.93 and 40-126.35 applies for aid, the county shall inform the applicant in writing of the requirements of Sections 40-125.93, 40-126.35, and 40-126.36.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10554 and 11275, Welfare and Institutions Code.

**40-128 APPLICANT'S STATEMENT OF FACTS (Continued)****40-128****.2 Who May Sign the AFDC Statement of Facts**

Every effort should be made to obtain the parent's or guardian's signature on the Statement of Facts (CA 2) regardless of who signs the application (CA 1). However, a relative or the social service agency representative who has responsibility for the care and supervision of the child may sign the CA 2 in the following instances:

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- .21 The child has been relinquished for adoption.
- .22 There is no parent or guardian.
- .23 The parent has been legally deprived of the child's custody.
- .24 The parent cannot be located or is not available to sign. The parent may be deemed unavailable to sign if he/she is physically or mentally incapable of signing. In all situations where the child is living with someone other than the parent, then the parent may be deemed unavailable to sign if (1) his/her whereabouts are unknown, (2) he/she refuses to sign, or (3) he/she refuses to cooperate in providing necessary information.  
  
(See Section 40-131 regarding interview requirement.)
- .25 At county option, the placement worker shall have the authority to complete an FC 2 in place of the CA 2 under the following circumstances:
  - .251 The child is relinquished for adoption.
  - .252 The parent is unavailable to sign, as described in .24 above.
  - .253 There is no parent or guardian.
- .3 Repealed by Manual Letter No. EAS-86-01 (effective 1/17/86).
- .4 When the Statement of Facts and other documents are to be completed by a representative of the county on behalf of the applicant or recipient, that representative shall be the person with responsibility for the care and supervision of the applicant or recipient, and another representative of the county shall then countersign and approve any recommendation for authorization of aid payments. (See Section 40-131 regarding interview requirement.)

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: 45 CFR 205.50(a)(1)(i)(A); 42 USC 602(a)(39); Family Support Action Transmittal 91-15 dated April 23, 1991; and Section 5053 of the Omnibus Budget Reconciliation Act (OBRA) of 1990.

**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 AFDC. A child's deprivation is based on the status of his/her natural or adoptive parent or parents. (For AFDC-FC see Division 45.)

**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 for Federal AFDC-U or Chapter 41-600 for State-only AFDC-U);
  - .14 Either parent is continually absent from the home in which the child is living (see Section 41-450).
- .2 All bases for deprivation shall be considered at time of application and at time of redetermination of eligibility.
- .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 above except that:
  - .31 Federal AFDC-U shall not be selected if the child is eligible under another federal deprivation, and
  - .32 The basis which permits federal participation shall be used first.

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

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**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:

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**HANDBOOK CONTINUES**

.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.
  - (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.

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**HANDBOOK CONTINUES**

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- (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.

.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.

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**HANDBOOK CONTINUES**

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**41-403**      **DEFINITION OF PARENT (Continued)** **41-403**

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**HANDBOOK CONTINUES**

.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.
- .2      Assistance shall be continued, if the family is in need, for a readjustment period not to exceed three calendar months when:
  - .21      Deprivation, which is due to relinquishment, incapacity or absence, ceases, or
  - .22      Deprivation changes to deprivation due to separation or desertion of a parent.

**41-405                      TERMINATION OF DEPRIVATION (Continued)                      41-405**

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The purpose of the readjustment period is to enable aid and service to be provided in order to help the family to become reestablished and to eliminate or minimize situations that will cause the family to have need for further public assistance.

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**41-410                      RELINQUISHMENT FOR ADOPTION                      41-410**

Repealed by DSS Manual Letter No. EAS-88-05.

**41-420                      PARENT IS DECEASED                      41-420**

- .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).



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

.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 FEDERAL AFDC-U: 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:

(A) Is not employed; or

(B) Is employed less than 100 hours per month; or

**41-440 FEDERAL AFDC-U: UNEMPLOYED PARENT PROGRAM (Continued) 41-440**

- (C) Is employed 100 hours or more in a particular month but the work is intermittent and the excess over the 100 hours is temporary in nature as evidenced by:
- (i) his/her hours of employment were less than the 100 hours standard in the two prior months; and
  - (ii) his/her hours of employment are expected to be less than the 100 hours standard in the succeeding month.
- (2) When the principal earner is employed for less than 100 hours a month, he/she shall not be considered employed for purposes of unemployment deprivation.
- (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.

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(4) EXAMPLE:

A principal earner is employed part-time (80 hours a month) during the months preceding May. In May he reports that he will be working 160 hours in June because he is covering for another employee. He is expected to return to 80 hours in July. During June, unemployment deprivation exists since the principal earner worked less than 100 hours in April and May and he is expected to work more than 100 hours in June.

In July, the same principal earner reports that he is working 160 hours in July, but is not expected to exceed 100 hours in August. Since he worked over 100 hours in June, which is one of the two months preceding July unemployment deprivation does not exist for July. However, deprivation based on unemployment for June is not affected by the actual hours worked in July because in June the principal earner was expected to work less than 100 hours in July.

July does not represent a break in aid. A new determination of federal eligibility is not needed.

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**41-440 FEDERAL AFDC-U: UNEMPLOYED PARENT PROGRAM (Continued) 41-440**

- (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 and any income earned is counted toward establishing a connection with the labor force.

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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 in the month of April in connection with his occupation:

40 hours collecting orders for the product.

15 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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**41-440**      **FEDERAL AFDC-U: UNEMPLOYED PARENT PROGRAM (Continued)**      **41-440**

- (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 federal AFDC-U 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. Such designation shall not preclude federal financial participation. 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 federal AFDC-U.

- (d) **Date of Application or Request for Transfer to federal AFDC-U:** The date of application for determining (or month of) the request for transfer to federal eligibility (see Section 41-440.411) is either:

- (1) the date of application for federal AFDC-U 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:
  - (A) Eligibility may be established for federal AFDC-U; for example, a parent returns to the home, a parent is no longer incapacitated, or the principal earner acquires a connection with the labor force.
  - (B) Eligibility may be established for federal AFDC-U because the family is no longer eligible for a state AFDC program (e.g., Shaw v. McMahan, Simon v. McMahan, or State-only AFDC-U).

The county shall identify the need for and assist the recipient in making the status change. (See Section 41-440.411.)

- (e) **Employment in WIN Components:** Parents in On-the-Job Training (WIN/OJT) and parent in Public Services Employment (WIN/PSE) are considered employed for purposes of deprivation. In other words, WIN/OJT and WIN/PSE are not considered training programs but are considered employment, and deprivation due to unemployment does not exist if the parent exceeds the limit specified in Section 41-440.1(a).

<b>41-440</b>	<b>FEDERAL AFDC-U: UNEMPLOYED PARENT PROGRAM (Continued)</b>	<b>41-440</b>
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- (f) Cause Determination - A determination that a principal earner either did or did not have a good reason for failure or refusal to meet a program requirement.
- (g) EDD-JS - Employment Development Department, Job Services section. That section of EDD which registers the remote principal earner and the State-only principal earner for employment services.
- (h) Exempt Principal Earner - The principal earner who is not required to be registered in accordance with Section 42-625 or with EDD-JS for employment services pursuant to Section 41-440.23.
- (i) GAIN AFDC-U Principal Earner - The principal earner residing in a GAIN county who is automatically registered for GAIN as a condition of eligibility.
- (j) IMU - Income Maintenance Unit. That unit within the county welfare department which makes eligibility and grant determinations.
- (k) Nonexempt Principal Earner - The principal earner who is automatically registered in accordance with Section 42-625 or is required to register with EDD-JS pursuant to Section 41-440.25.
- (l) Non-WIN/Non-GAIN Principal Earner - the federally eligible principal earner who is exempt from WIN Demo or GAIN registration due to remoteness.
- (m) WIN Principal Earner - The federally eligible principal earner residing in a WIN county who is required to register for WIN Demo as a condition of eligibility.
- (n) Quarter of Application or Transfer to Federal AFDC-U - The calendar quarter in which the family's aid status changes to or the family applies for AFDC on the basis of unemployment of the principal earner.

(See Sections 42-600.3 and 42-710.3 for additional definitions applicable to the employment programs.)

**41-440 FEDERAL AFDC-U: UNEMPLOYED PARENT PROGRAM (Continued) 41-440**

.2 Requirements to be Met in Order to Establish Deprivation Due to Unemployment (Federal AFDC-U)

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**HANDBOOK BEGINS HERE**

Note: Section 41-440.26 provision does not apply to refusals, quits or terminations of state seasonal employment made available under the "AB 1531 Demonstration Project". See Section 42-910.

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**HANDBOOK ENDS HERE**

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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 been unemployed (Section 41-440.1(a)) for at least 30 consecutive calendar days prior to the receipt of cash assistance based on AFDC-U deprivation. The 30 days begins the first day of the month in which the applicant principal earner worked less than 100 hours.

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**HANDBOOK BEGINS HERE**

.221 EXAMPLE:

An applicant principal earner was laid off on April 13th and worked a total of 89 hours in April. This applicant's 30-day waiting period for federal AFDC-U would begin on April 1.

An applicant principal earner was laid off on April 20th and worked a total of 143 hours in April. This applicant's 30-day waiting period for federal AFDC-U would begin on May 1.

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**HANDBOOK ENDS HERE**

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**41-440 FEDERAL AFDC-U: UNEMPLOYED PARENT PROGRAM (Continued) 41-440**

- .23 The principal earner, whether included or excluded from the assistance unit, shall be work registered in accordance with Section 42-625. Those federally eligible principal earners who are exempt from registration only because of remoteness (Section 42-794) shall be registered with EDD-JS unless exempt in accordance with Section 42-788. 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. Those federally eligible principal earners who are exempt under any other exemption criterion in Section 42-788 do not have a work registration requirement.
- .231 The principal earner who is exempt under Section 42-636, but not otherwise exempt is required to maintain current registration through regular contacts as required by EDD-JS. In no event will the principal earner be required to report more frequently than is required by EDD-JS standards for all other EDD-JS registrants in that local community.
- .232 The requirement that those principal earners identified in Section 41-440.231 maintain current registration is absolute. A good cause determination is not made. Eligibility is reestablished when such individual is reregistered with EDD-JS.
- .233 When the principal earner does not meet or maintain the work registration requirements, federal AFDC-U deprivation exists for the family, however, the county shall deny or discontinue aid for the principal earner.
- .24 The AFDC-U principal earner, who is apparently eligible for UIB (see Section 44-103.115(a)), 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, Federal AFDC-U 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. See Section 44-103 for the requirements for pursuing UIB as potential income for principal earners who are not exempt from GAIN registration.
- .25 The principal earner shall not be unemployed as a result of his/her participation in a strike, as defined in Section 41-703.22.

**HANDBOOK BEGINS HERE**

(See Section 41-603 for possible State-only AFDC-U Program eligibility and Section 41-703 for the Striker Assistance Program.)

**HANDBOOK ENDS HERE**

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- .26 The applicant principal earner shall not refuse Employment or Employment-Related Training.
- .261 In the 30-day period immediately prior to the beginning date of AFDC-U, the principal earner shall not have, without good cause, refused a bona fide offer of employment or employment-related training. Refusal of employment includes a job quit.
- .262 When the applicant principal earner does not meet the good cause requirements of 41-440.265, the family shall be ineligible for federal AFDC-U for 30 days from the date he/she refused an offer of a job or training, or quit a job. The CWD shall:
  - (a) Deny aid for the applicant family or hold the application pending eligibility (see Section 40-171).
  - (b) Inform the principal earner parent that he/she may reapply after expiration of the 30 days.
- .263 Good cause determinations:
  - (a) Shall be made by the local GAIN staff (see Section 42-781 for good cause criteria) for those job referrals made by GAIN for GAIN registered principal earners. The good cause determinations of the GAIN staff may be appealed through the state hearing process of the Department of Social Services. (See Division 22-000 for state hearing process.)
  - (b) Shall be made by the CWD, for good cause determinations when the referral was not made by either GAIN or EDD-JS.

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**HANDBOOK BEGINS HERE**

- (c) Are to be made by the local EDD-JS staff, for those job referrals made by EDD for EDD-JS registered principal earners applicants. (See (a) above for appeal rights.)

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**HANDBOOK ENDS HERE**

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**41-440**      **FEDERAL AFDC-U: UNEMPLOYED PARENT PROGRAM (Continued)**                      **41-440**

- .264      When making a good cause determination the CWD shall:
- (a)      Determine whether a bona fide offer of employment or training was made to the individual.
  - (b)      Determine whether the individual refused to accept the bona fide offer of employment or training or failed to begin the employment or training as planned.
  - (c)      Give the individual an opportunity to explain why the offer was not accepted.
- .265      Good cause exists for refusing a bona fide offer of employment or employment-related training (see Section 41-440.261) when one or more of the following exist:
- (a)      The wage offered for the employment or training was less than the applicable state or federal minimum wage, or was lower than the customary wage in the community for that particular employment or training as set by EDD, whichever is higher.
  - (b)      The type of employment or training exceeded the individual's mental or physical capacity.
  - (c)      The individual was ill.
  - (d)      The individual was without means of getting to or from the place of employment or training.
  - (e)      The offer of employment was from an employer who does not:
    - (1)      Possess an appropriate license to engage in his business, or
    - (2)      Withhold or hold in trust the employee contribution required by Part 2, Division 1 of the Unemployment Insurance Code, Section 2601, et seq., for unemployment compensation disability benefits and does not transmit all such employee contributions to the Employment Development Department for the Disability Fund as required by Section 986 of the UI Code; or

**41-440 FEDERAL AFDC-U: UNEMPLOYED PARENT PROGRAM (Continued) 41-440**

(f) The employment or training violated applicable health and safety laws and regulations.

.3 Repealed by Manual Letter No. 85-44, effective 7/1/85.

.4 Connection with the Labor Force - Federal AFDC-U

.41 The principal earner, shall have a connection with the labor force.

.411 By meeting one or a combination of the requirements in (a), or (b), below in 6 calendar quarters within any 13-calendar-quarter period which ends within one year before the quarter of application or transfer to federal AFDC-U occurs (see Section 41-440.1(d)).

(a) Earned a gross of at least \$50 during the quarter;

OR

(b) Participated during the quarter in any activity administered under any of the following:

(1) The Work Incentive Program (WIN);

(2) The Work Incentive Demonstration Program (WIN Demo);

**41-440      FEDERAL AFDC-U: UNEMPLOYED PARENT PROGRAM (Continued)      41-440**

- (3)      The Community Work Experience Program (CWEP) including the San Diego Employment Work Experience Program (EWEP);
- (4)      The GAIN Program;

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**HANDBOOK BEGINS HERE**

EXAMPLE:

A family applies for AFDC-U in September 1984. The principal earner parent reports work/training history on the CA 2 as follows:

- a)      \$200 for July-September 1980 quarter
- b)      \$35 for January-March 1981 quarter
- c)      \$40 for October-December 1981 quarter
- d)      \$80 for April-June 1982 quarter
- e)      college level metal shop training for July-September 1982 quarter
- f)      \$350 for January-March 1983 quarter
- g)      \$60 for July-September 1983 quarter
- h)      \$100 for October-December 1983 quarter
- i)      \$425 for January-March 1984 quarter
- j)      \$625 for July-September 1984 quarter.

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**HANDBOOK CONTINUES**

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**HANDBOOK CONTINUES**

**FEDERALLY INELIGIBLE - CHART I**

YEAR	80	80	81	81	81	81	82	82	82	82	83	83	83	83	84	84
QUARTER	Jul Sept	Oct Dec	Jan Mar	Apr Jun	Jul Sept	Oct Dec	Jan Mar	Apr Jun	Jul Sept	Oct Dec	Jan Mar	Apr Jun	Jul Sept	Oct Dec	Jan Mar	Apr Jun
WORK(\$50)	\$200		\$35			\$40		\$80			\$350		\$60	\$100	\$425	
TRAINING See Section. 41-440.411(b)									*							

\*\* ←—————→

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In this example the family applies in September, 1984 (the July - September 1984 quarter). This quarter of application does not count until after October 1, 1984.

- \* College training
- \*\* This period represents the 1st 13 calendar quarters within 1 year prior to the quarter application (September 1984).
- \*\*\* This period represents the last possible 13 calendar quarters within 1 year prior to the quarter of application (September 1984).

(CHART I)

The July-September 1982 quarter does not count because this training was not an approved training activity as described in Section 41-440.411(b). The October-December 1981 and January-March 1981 quarters do not count because the earnings are less than \$50.

As shown on Chart I, the principal earner does not have six quarters of earnings/training in any 13-quarter period which ends within one year before the quarter of application (July-September).

**HANDBOOK ENDS HERE**

OR

41-440 **FEDERAL AFDC-U: UNEMPLOYED PARENT PROGRAM (Continued)** 41-440

**HANDBOOK BEGINS HERE**

FEDERALLY ELIGIBLE - CHART II

YEAR	80	80	81	81	81	81	82	82	82	82	83	83	83	83	84	84
QUARTER	Jul Sept	Oct Dec	Jan Mar	Apr Jun	Jul Sept	Oct Dec	Jan Mar	Apr Jun	Jul Sept	Oct Dec	Jan Mar	Apr Jun	Jul Sept	Oct Dec	Jan Mar	Apr Jun
WORK(\$50)		\$40		\$80			\$350		\$60	\$100	\$425		\$625			
TRAINING See Section. 41-440.411(b)									*							



In this example the family applies for or transfers to federal AFDC-U in October, 1984 (the October-December 1984 quarter). The family becomes federally eligible October 1, 1984.

\* College training

(CHART II)

The October-December 1981 quarter does not count because the earnings are less than \$50.

As of October 1, 1984, as shown on Chart II, he/she has the required six quarters in one 13 quarter period which ends within one year before the quarter of application or transfer to federal AFDC-U.

**HANDBOOK ENDS HERE**

.412 By receiving, or being eligible to receive, unemployment insurance benefits within one year before application or transfer to federal AFDC-U. Being eligible to receive, as used in this section, includes the following:

- (a) The principal earner would have been eligible to receive unemployment compensation upon filing an application for unemployment compensation.
  - (1) The following criteria may be used to determine if the principal earner "would have been eligible to receive unemployment compensation."

**HANDBOOK BEGINS HERE**

- (A) The person shall not have left the prior employment for any of the following reasons:
- (1) By voluntarily quitting.
  - (2) By voluntarily leaving without good cause as a result of misconduct.
  - (3) By leaving employment as a result of a trade dispute.
- (B) The person shall have adequate earnings to qualify for UIB in the base period. The base period is as follows:
- (1) For benefit years beginning in November, December, or January; the four calendar quarters ending in the nearest preceding month of June.
  - (2) For benefit years beginning in February, March, or April, the four calendar quarters ending in the nearest preceding month of September.
  - (3) For benefit years beginning in May, June or July, the four calendar quarters ending in the nearest preceding month of December.
  - (4) For benefit years beginning in August, September, or October, the four calendar quarters ended with the nearest preceding month of March.

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**HANDBOOK CONTINUES**

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**HANDBOOK CONTINUES**

- .511 Statements from employers that indicate:
- (a) The number of hours worked per month and per week, or if the applicant is still employed, the number of hours working per month or per week.
  - (b) The date and reason for leaving if the applicant is no longer employed.
  - (c) Additional hours of work were not offered or available.
- .512 A statement from the Employment Development Department (EDD) which indicates the following:
- (a) The date of referral of the applicant to a training program listed in Section 41-440.1(d) or the date of registration with EDD-JS.
  - (b) The amount of UIB received by the applicant for one year prior to the date of application, and the amount, if any, he/she is receiving on the date of application.

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**HANDBOOK ENDS HERE**

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.6 Readjustment Period

There is no readjustment period. Aid ceases when deprivation due to unemployment ends, provided no other basis of deprivation exists.

.7 Discontinuance Due to Employment

- .71 Aid shall be discontinued, effective at the end of the month in which a principal earner accepts an offer of employment that is expected to provide him/her with more hours of work than specified in Section 41-440.1 during the following month. If the county is unable to discontinue aid at the end of such month because the 10-day advance notice requirement cannot be met, aid shall be discontinued effective the end of the following month (see Section 44-325.5). An overpayment exists in such month if the principal earner exceeds the 100 hour limit specified in Section 41-440.1 and the family continues to receive aid.



**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.

**HANDBOOK BEGINS HERE**

- .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 other's 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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**HANDBOOK ENDS HERE**

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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.

**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 AFDC eligibility until his/her 18th birthday. A child 18 years of age may be eligible if the requirements in Section 42-101.2 are met.
  - .11 See Section 42-632 for WIN Demo program requirements for children 16 and 17 years of age.
- .2 A child 18 years of age is eligible for AFDC 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.

**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.

**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.

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**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.

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**HANDBOOK ENDS HERE**

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<b>42-203</b>	<b>BASIC DEFINITIONS</b>	<b>42-203</b>
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.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 generally is possessions or interests which are not real property but which may be easily transported or stored. Personal property also may be in the nature of a valuable property right, such as an uncollected judgment, an interest in a firm in receivership, etc.

.21 For purposes of this chapter cash and securities refers to cash, savings and checking accounts, securities, instruments or other evidence of indebtedness such as notes, mortgages and deeds of trust.

.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.

**42-203 BASIC DEFINITIONS (Continued) 42-203**

.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.

.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.)

<b>42-203</b>	<b>BASIC DEFINITIONS (Continued)</b>	<b>42-203</b>
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.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.

.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

Net market value is the highest price that 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 AFDC Family

For purposes of this chapter, the members of the AFDC 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 or APSB 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 or personal property. See Sections 42-203.1 and 42-203.2 for definitions of real and personal property.

**42-205 DETERMINING OWNERSHIP OF REAL AND PERSONAL PROPERTY 42-205**

.1 Declaration of Property Ownership

The applicant's declaration of the property he and/or his spouse own is considered sufficient proof of property ownership unless there is information indicating probable ownership of property other than that declared. In the presence of such information, the facts as to ownership must be determined from appropriate records, such as recorder's records, bank deposits and withdrawals and/or through affidavits of the applicant or recipient and other individuals concerned.

.2 Title Shared with Others

There is a presumption that those who share title have equal rights to possession, control and use of the property but the presumption may be refuted by evidence to the contrary. The source and amount of funds invested in the property or the facts around the inheritance, if it was acquired in this way, must be determined in order to arrive at the share which the applicant or recipient and/or his spouse actually owns.

.3 Community Property

Each spouse is presumed to own a one-half interest in community property, regardless of which spouse holds the property. All property held in the name of the spouse of a married person is presumed to be community property unless evidence establishes it to be separate property. Exception: Burial trusts and interment plots are considered the separate property of the spouse who is to be the beneficiary or user.

.4 Child Lives with Mother and Stepfather

When a child lives with his mother and stepfather, each spouse is presumed to own a one-half interest in property held by either spouse, unless this presumption is refuted by evidence which established it to be the separate property of one spouse.



<b>42-205</b>	<b>DETERMINING OWNERSHIP OF REAL AND PERSONAL PROPERTY (Continued)</b>	<b>42-205</b>
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.5 Sponsored Aliens

For purposes of this section, "sponsored alien" applies only to those aliens who are sponsored by an individual and not those aliens who are sponsored by any public or private agency or organization (see Section 43-119.2).

The resources of the alien's sponsor and the resources of the sponsor's spouse who lives with the sponsor as provided in Section 43-119.22, shall be deemed to be the sponsored alien's resources. These resources are determined as follows:

- .51 Determine the total net market value of real and personal property of the sponsor and the sponsor's spouse as if they were applying for aid (Chapter 42-200);
- .52 Reduce the amount determined in .51 by \$1,500;
- .53 If a person is the sponsor of more than one alien, divide the amount determined in .52 by the number of sponsored aliens receiving AFDC including the number of sponsored aliens in the applicant's FBU. This amount shall be deemed to be the resources of each applicant or recipient who is a sponsored alien. If the deemed resources alone or in combination with other property of the FBU exceed \$1,000, ineligibility results, but only for the sponsored alien(s).
- .54 These resources shall not be considered as the resources of other applicants or recipients in the family who are not sponsored aliens, unless such resources are actually available to these other persons, e.g., the sponsor establishes a trust fund that is available to meet the current needs of the family.

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**HANDBOOK BEGINS HERE**

See ACL 02-45 for current property limit.

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**HANDBOOK ENDS HERE**

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NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, 11155, 11155.1, 11155.2, and 11257, Welfare and Institutions Code; 45 CFR 233.20(a)(3)(i)(B); and the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994.

<b>42-207</b>	<b>PROPERTY WHICH MAY BE RETAINED BY AN APPLICANT</b>	<b>42-207</b>
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- .1 The net market value of real and personal property including resources not excluded elsewhere in this chapter, owned by an AFDC FG/U family or by each AFDC-FC child shall not exceed \$1,000. If the limit is exceeded, the family or child is ineligible.

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**HANDBOOK BEGINS HERE**

See ACL 02-45 for current property limit.

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**HANDBOOK ENDS HERE**

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NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, 11155, 11155.1, 11155.2, and 11257, Welfare and Institutions Code; 45 CFR 233.20(a)(3)(i)(B); and the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994.