

## SHD Paraphrased Regulations - CalWORKs

### 109 Time-Limits

#### 109-2

Except as specified in Section 42-302.11, no individual shall be eligible for aid when that individual has received aid as an adult, 18 years of age or older, for a cumulative total of 48 months. The 48-month time limit applies to aid received under CalWORKs. The 48-month time limit also applies to any aid received under another state's program funded by the federal Temporary Assistance to Needy Families (TANF) Program since January 1, 1998. The 48-month time limit shall not apply to children or non-minor dependents. (§42-302.1)

#### 109-3

A timed out adult is an adult who has been removed from the AU because that adult has exceeded the 48-month CalWORKs time limit set forth in §42-301. (§82-833.1; All County Letter 11-33, April 29, 2007)

#### 109-4

The CWD shall provide the individual, in writing and orally as necessary, a description of the 48-month time limit requirements, including the exemptions from the time limit, as provided in Sections 42-302.11 and 42-302.21 and the process by which recipients can claim the exemptions, as provided in MPP Section 42-302.3. The description of the 48-month time limit requirements shall be provided at the time an individual applies for aid, at the time a recipient's eligibility for aid is redetermined, and any other time a notice of action establishing time on aid pursuant to this section is provided. (§40-107(a)(4))

#### 109-5

Upon request for time limit information, a current or former CalWORKs recipient shall be notified, in writing, of the following within 30 calendar days from the date of receipt of the request:

- (a) The cumulative number of countable months (per §42-302.2) that the recipient received aid.
- (b) The specific months that were exempt from the 48-month time limit since the most recent notification (per §§40-107(a)(4)(A), 40-107(a)(4)(B), 40-107(a)(4)(C)1., or 40-107(a)(4)(D).
- (c) The remaining number of months that the recipient may be eligible to receive aid.

(§40-107(a)(4)(F))

#### 109-6

The applicant shall be informed, by notice of action, at the time that eligibility for aid is authorized and the recipient shall be informed at redetermination by notice of action of:

- the number of months the individual received aid as reported on the most recent notice of action,
- the cumulative number of countable months that the recipient has received aid and the specific months that were exempt from the 48-month time limit since the last notice of action, or the beginning of aid if there has been no prior notice of action, the remaining number of months that the recipient may be eligible to receive aid. (40-107(a)(4)(A) and (B))
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#### 109-7

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At the 42nd countable month of aid, a notice of action (NOA) must be sent which meets the requirements of §40-107(a)(4)(A), or the notice must inform the recipient of the cumulative number of countable months of aid, and the remaining months of eligibility. (§40-107(a)(4)(C))

#### 109-8

Each recipient shall be informed by notice of action provided in one month during the period of the recipient's 42nd through 46th countable month on aid of the time on aid. Once the notice of action is sent, no further notice of action shall be required until six exempt months have passed. (40-107(a)(4)(D))

#### 109-9

No notice of action is required if an adequate 48-month NOA was sent within the previous three calendar months, or if the individual has established an exemption based on being 60 years of age or older (§40-107(a)(4)(E))

#### 109-10

When an individual has been aided as an adult for 48 months, additional months of aid may be provided to that adult when all parents, aided stepparents, and/or caretaker relatives residing in the home of the aided child(ren) meet any of the following conditions:

- .111 The individual is 60 years of age or older.
- .112 The individual is exempt from participation in WTW due to:
  - (a) Caring for an ill or incapacitated person residing in the home, and the care impairs the individual's ability to be "regularly employed" or to participate in WTW activities.
  - (b) Being a non parent caretaker of a dependent child of the court, a Kin-GAP child, or a child who is at risk of foster care placement; and the caretaking responsibilities exceed those considered normal parenting responsibilities so that they impair the individual's ability to be regularly employed or to participate in WTW activities.
- .113 The individual receives State Disability Insurance (SDI), Worker's Compensation Temporary Disability Insurance, IHSS, or SSI/SSP, and the disability significantly impairs the ability to be employed on a regular basis or to participate in WTW activities.
- .114 The county determines the individual is not able to "maintain employment" or to participate in WTW activities, based on a current assessment of the individual, as set forth in §44-302.114(b), and a finding by the county that the individual has a history of participation and full cooperation in WTW activities.

(§42-302.11)

One other exception exists, i.e., when the individual is a victim of domestic abuse, and the county has determined that good cause exists for waiving the 48-month time limit. (§42-302.12)

#### 109-11

A former CalWORKs recipient may request a time limit extender (i.e., an exception to the time limit) at any time, not only when that individual reaches their 48-month time limit. (All County Letter No. 11-57, August 11, 2011, Question 4.)

109-12

When the individual is being evaluated for an exception to the CalWORKs 48-month limitation because of an alleged inability to maintain employment or participate in WTW activities, to determine whether the individual has a history of participation and full cooperation in WTW activities, the following criteria shall be used:

- (a) The county's determination that the individual has a history of participation and full cooperation in WTW activities shall be based on either of the following criteria that may apply:
  - (1) The recipient has not failed to meet satisfactory participation, attendance, and progress requirements, without good cause, as evidenced by the absence of an instance(s) of noncompliance that resulted in a WTW financial sanction during the time an individual was a mandatory WTW participant.
    - (A) For purposes of this section, a sanction received while the individual was a volunteer in the CalWORKs WTW program pursuant to §§42-712.51, or an aid recipient in another state, shall not be considered a WTW sanction.
  - (2) The recipient has an instance or instances of noncompliance that resulted in a WTW sanction or sanctions; however, the individual has also maintained to the best of his/her ability, a sustained period or periods of WTW participation despite the presence of a significant impairment or combination of impairments, as determined pursuant to §§42-711.56, 42-711.57, or 42-711.58, including domestic abuse, as determined pursuant to §42-715.
    - (A) For purposes of this section, six months, or two or more periods of WTW participation within a consecutive 24-month period, including participation in orientation/appraisal, job search, assessment/evaluations, and post-assessment activities, that equal six-months or more shall be considered a sustained period.
    - (B) For purposes of this section, a significant impairment is one that does not meet the welfare-to-work exemption or waiver requirements §§42-712.44 or 42-715, respectively, but nevertheless limits an individual's ability to perform the physical and/or mental functions necessary to maintain employment or participate in WTW activities.

(§42-302.114(a))

If the county determines that the individual has a history of participation and full cooperation in WTW, the county shall assess the individual's current ability to maintain employment or participate in WTW activities, using the criteria set forth in (b), below:

- (1) An individual who is fully participating in her/his WTW assignment upon reaching the 48-month time limit shall be considered capable of work unless the individual's required

hours of participation or WTW activity have been modified in accordance with §42-302.114(b)(2)(B).

- (2) The county determines that an individual is incapable of maintaining employment or participating in WTW activities, based upon, but not limited to, one of the following criteria:
- (A) The individual has a documented impairment or combination of impairments, as set forth in §42-302.114(a)(2), that the county has determined severely limits the individual's ability to successfully maintain employment or participate in WTW activities for 20 or more hours per week.
  - (B) The individual has a documented impairment or combination of impairments, as set forth in §42-302.114(a)(2), and is maintaining participation in WTW activities only through a significant modification in those activities.
  - (C) The individual has a documented impairment or combination of impairments, as set forth in Subsection (a)(2) above, and local labor market conditions limit the availability of employers that could reasonably accommodate the individual's physical and/or mental limitations.

(§§42-302.114(b))

**109-13**

Individuals determined to be incapable of maintaining employment shall have their condition reviewed at least once every 12 months, unless the disabling condition or conditions is expected to improve at an earlier date.

For individuals with a learning disability, which was documented pursuant to MPP Section 42-711.58, the county shall review the individual's employment status and the impact of any newly-developed coping skills, strategies, and accommodations on the individual's ability to maintain employment, ability to cope with his/her impairment, and shall not require a reevaluation of the learning disability. (§42-302.114(c).)

**109-14**

The following months are counted toward the 48-month time limit:

- All countable months of CalWORKs time-on-aid (TOA) received in California since January 1, 1998;
- All months of Temporary Assistance for Needy Families (TANF) TOA received from other states since January 1, 1998. As a reminder, CWDs must continue to treat months of Tribal TANF assistance as out-of-state TOA.

The following months of aid will continue to not count toward the CalWORKs 48-month time limit:

- Months of TANF aid received in California or any other state between September 1, 1996 (when some states first implemented their TANF program) and December 1997;

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- Months in which the adult was exempt from the CalWORKs time limit clock, or were not aided due to a sanction from the Welfare-To-Work program.

(All County Letter (ACL) 11-33, April 29, 2011; Welfare and Institutions Code Section 11454, as amended by SB 72, January 2011)

#### 109-15

Any month or partial month in which an adult is included in an AU that receives a cash grant (including a special need payment) shall count towards the 48-month time limit, except if the month was an exempt month (§42-302.21) or part of a diversion count (§42-302.22).

#### 109-16

Any overpayment month, (an entire month of aid in which the recipient was not entitled to cash aid), that is fully repaid shall not count for the purposes of the 48-month time limit. (§42-302.2)

#### 109-17

Counties are required to "untick" only the repaid overpayment months in which the family was entirely ineligible for aid. For all other overpayments that occur in partially eligible months, those months will continue to count toward the 48-month time clock. (All-County Letter No. 02-74, October 1, 2002, dealing with the former 60 month time limit on aid.)

#### 109-17A

State law and regulations require that any month in which cash aid is fully reimbursed as a result of child support collection, whether collected in that month or any subsequent month, shall be exempt from the CalWORKs 48-month time limit.

All child support recoupment, including collections for a current month, arrearages, and lump sum payments, collected from January 1998 forward, shall be cumulatively applied to repay aid payments in the following manner:

1. The cumulative child support recoupment (i.e., child support that has been assigned and collected to repay aid) will be applied to each month of aid, starting with the earliest unreimbursed month(s) of aid, on or after January 1998. The county shall move forward chronologically as each month's grant is fully reimbursed.
2. Each month of aid that is fully reimbursed by child support shall be exempt and therefore not counted toward the CalWORKs 48-month time limits of parents, aided stepparents, and/or aided caretaker relatives residing in the home of the child(ren.) Beginning October 1998, this includes disregard payments.
3. The child support recoupment amount will be applied to all months of aid whether or not the month had been previously exempted for any other reason, including any month(s) exempt because the individual was unaided due to a sanction or other reasons.
4. The child support recoupment amount must be reviewed to determine if the cumulative amount is sufficient to reimburse and exempt a monthly grant amount. Any child support amount that remains but is insufficient to fully reimburse a monthly grant, whether collected in the current month or for a previous period of time, shall be carried forward and used for any subsequent unreimbursed month(s) of aid.

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5. The recipient shall be informed of the exempt months due to child support recoupment pursuant to MPP Sections 40-107(a)(4)(A) through (a)(4)(I).
6. As recipients transfer to other counties, information regarding the balance of the child support recoupment and number of months exempt due to child support recoupment must be reported to any subsequent county(ies) to continue reimbursement of the subsequent months of aid.

(W&IC §11454.5(a)(3), §42-302.21(h))

In order to comply with the requirement that both current and subsequent child support collections are applied to reimburse and exempt monthly aid, counties are required to track the recoupment of aid through child support collections.

- For purposes of tracking this exemption, counties will use the Welfare Data Tracking Implementation Project (WDTIP) system to “untick” the months of aid for the exemption
- Records of the aid payments and the cumulative child support recoupment amounts will be retained until the months of aid have been fully reimbursed and the exempt months are recorded and validated.

(All-County Letter No. 02-74, October 1, 2002)

#### 109-18

Diversion payments as set forth in Section 81-215 count toward the 48-month time limit unless they are recouped as provided in Section 42-302.223(a) or unless part or all of the diversion period is exempt as provided in Section 42-302.21 et seq. (§42-302.22)

#### 109-19

Any month in which any of the following conditions exists for any period during the month shall not count toward the 48-month time limit:

- (a) The individual is exempt from WTW participation requirements due to a verified disability that is expected to last at least 30 days.
- (b) The individual is exempt from WTW due to:
  - (1) The need to care for an ill or incapacitated person residing in the home.
  - (2) Being the nonparent caretaker of a dependent child of the court, a kin-GAP child, or a child who is at risk of placement in Foster Care. The caretaking responsibilities must be beyond normal day-to-day parenting responsibilities.

(In both (1) and (2), the individual's ability to be "regularly employed", or to participate in WTW activities, must be impaired.)

- (3) Being the parent or other relative who has primary responsibility for personally providing care to one child who is from 12 to 23 months of age, inclusive, or two or more children

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who are under six years of age. This paragraph was effective July 28, 2009 and became inoperative on January 1, 2013.

- (A) An individual whose exemption ended on January 1, 2013, pursuant to Section 42-302.21(b)(3) shall not have months count toward his or her CalWORKs 48-month time limit until the CWD reengages him or her in the Welfare-to-Work Program pursuant to Section 42-712.8.
- (4) Being the parent or other relative who has primary responsibility for personally providing care to one child from birth to 23 months, inclusive. An individual shall be eligible for this 48-month time limit exemption only one time under the CalWORKs Program. This paragraph is effective January 1, 2013. See Section 42-712.475.
- (c) The individual is a victim of domestic abuse, and good cause (per §42-713.22) exists for waiving the 48-month limit.
- (d) The individual is eligible for, participating in, or exempt from Cal-Learn or another teen parent program approved by the CDSS.
- (e) The individual is exempt from welfare-to-work participation due to eligibility as a non-minor dependent.
- (f) The individual is exempt from welfare-to-work participation requirements due to being 60 years of age or older.
- (g) The individual is excluded from the AU for reasons other than exceeding the time limit.
- (h) The cash aid received in California or elsewhere has been fully reimbursed because of child support collection.
- (i) The individual lived in Indian country, or in certain Alaskan native villages.
- (j) The individual is a former cash aid recipient and is only receiving child care, case management or supportive services.
- (k) The recipient does not receive a cash aid payment because the eligible grant amount is less than \$10.
- (l) The individual is excused from participation for good cause due to lack of necessary supportive services, as specified in Section 42-713.21. This paragraph was effective July 28, 2009 and became inoperative on January 1, 2013.  
(§42-302.21, as revised effective January 22, 2015)

109-20

MPP section 42-302.21(b)(4) established a one-time young child exemption to the 48-month time limit for a parent or caretaker relative who has primary responsibility for personally providing care to one child from birth through 23 months of age, effective January 1, 2013.

For two-parent AUs meeting this young child exemption criterion, each parent in the AU must be provided the option to receive this exemption. Only one parent at a time may be granted the exemption; however, the parents have the option to alternate which parent is exempt. For example, one parent may receive the exemption for 12 months, and then alternate so that the

other parent receives the exemption for the remaining 12 months. In this example, the exemption is fully exhausted after 23 months for both parents and neither parent is eligible to receive it again. Clients granted this exemption are not required to participate in WTW and will not have months count against their CalWORKs 48-month time limit until they no longer meet the criteria for this exemption. Additionally, months while receiving this exemption do not count against the WTW 24-Month Time Clock.

This exemption is a once-in-a-lifetime option and is at the discretion of the client. This means that a client who has a child between zero and 23 months of age on January 1, 2013 has the option to reserve his or her right to use it for the caregiving of a future child (or to exercise it at a later date with respect to that existing child.)

(All County Letter No. 12-72, December 20, 2012)

109-21

MPP section 42-302.21(l) established an exemption to the 48-month time limit for individuals who were excused from WTW participation for good cause due to lack of supportive services, which was effective July 28, 2009 through December 31, 2012.

Clients who received this exemption will not have months counted against their CalWORKs 48-month time limit through December 31, 2012. Effective January 1, 2013, counties can continue to grant good cause to clients for lack of supportive services for purposes of WTW participation; however, this will no longer exempt months from a client's 48-month time limit.

(All County Letter No. 12-72, December 20, 2012)

109-22

General Information

The Welfare and Institutions Code (WIC) §11320.3 states that a client who has a verified disability is exempt from WTW participation when the following conditions exist:

- The disability is expected to last at least 30 calendar days.
- The disability significantly impairs the client's ability to be regularly employed or participate in WTW activities.
- The client is actively seeking appropriate medical treatment.

The CWDs are reminded that clients must provide verification from a doctor, defined by the CDSS Manual of Policies and Procedures (MPP) as a health care professional who is licensed by a state to diagnose/treat physical and mental impairments that can affect an individual's ability to work or participate in WTW activities (MPP §42-701.2, subdivision(d)(2)). The CDSS definition of state refers only to states within the United States.

The verification must: (1) identify the existence of a disability, (2) include the expected duration of the disability, and (3) include the extent to which the disability impairs the client's ability to be employed and/or participate in WTW activities (MPP §42-712.442, subdivision (a)). Any month in which a client is exempt from WTW participation due to a verified disability shall not count toward the client's WTW 24-Month Time Clock or CalWORKs 48-month time limit (WIC §11320.3, 11322.85, and 11454.5; MPP §42-302.21).

Requests for CalWORKs Disability Exemptions

When a client informs the CWD of a disability that is impairing his or her ability to be regularly employed or participate in WTW activities, the CWD shall document the situation in the client's case file and explain to the client that medical verification is necessary to process his or her request. The CWD then must provide the client with the CalWORKs Exemption Request Form (CW 2186A) and the Authorization to Release Medical Information (CW 61) in order for the client to complete his or her request (MPP §42-302.3).

The client may use the CW 61 or provide other medical verification which (1) states that the client has a disability, (2) includes the beginning date and expected duration of the disability, and (3) includes the extent to which the disability impairs the client's ability to be employed and/or participate in WTW activities. The client must also submit verification that he or she is seeking appropriate medical treatment for the disability. If the recipient prefers that the county obtain this information on the client's behalf, the CWD shall have the recipient sign a release that is compliant with the Health Information Insurance Portability and Accountability Act (HIPAA).

#### Granting CalWORKs Disability Exemptions

When a CWD receives a completed CW 2186A and the required disability verification components, the CWD must grant the disability exemption for WTW participation requirements, the WTW 24-Month Time Clock and the CalWORKs 48-month time limit as indicated by the required verification, and prospectively for as long as the disability and treatment continues to exist and can be verified.

If the client's condition impaired his or her ability to be employed or participate in WTW activities and the client provides verification that they were actively seeking treatment prior to the exemption request date, the exemption must be granted retroactively for the months that verification is provided.

If there is a delay in granting the exemption due to reasons outside of the client's control (i.e. delay on the part of an examining doctor to provide the necessary information or CWD error), and during the delay the client's condition impaired his or her ability to participate in WTW activities, at the time all proper verification is submitted, retroactivity must also be applied based on the date the client began treatment for the disability. In these situations, the client's CalWORKs 48-month time limit and WTW 24-Month Time Clock should be adjusted accordingly.

If granting of the disability exemption results in the client no longer being sanctioned and being added back into the Assistance Unit (AU), the client must receive underpayments for those sanctioned months which he or she was verified as qualifying for the disability exemption. Months that were not counted towards the client's WTW 24-Month Time Clock and CalWORKs 48-month time limit (WIC §11454 and 11322.85) due to sanction, remain uncounted due to the disability exemption.

#### CalWORKs Disability Exemption Reevaluations

A client's exemption shall be reviewed at the time the condition is expected to end, or sooner if there is reason to believe that the client's condition has changed or improved to a point where he or she may no longer qualify for the disability exemption (MPP §42-712.443).

For cases in which the client's doctor has stated in writing that the condition is permanent or chronic with no end date, the CWD shall establish an appropriate re-evaluation time period. It is recommended this re-evaluation occur at a minimum annually (i.e. at redetermination), and the CWD assist the client in exploring more permanent disability assistance options such as Supplemental Security Income (SSI).

Although the CW 2186B notice provides the start and end dates of the exemption to the client, as a best practice, CDSS recommends CWDs contact the client with a reminder, allowing the client a reasonable amount of time to submit any verification of continued exemption eligibility before the exemption is scheduled to end. When the client does not qualify for a continued

exemption, the county shall attempt to engage the client in work or appropriate WTW activities prior to beginning the non-compliance process.  
(All County Letter No. 15-08, January 21, 2015)

109-24

A CalWORKs recipient can request an exemption/exception to the 48-month time limit verbally or in writing. When a recipient states that s/he meets a condition that qualifies as an exemption or exception to the limit, the county shall document the request and provide the recipient with an exemption/exception request form if necessary to complete the request.

A completed exemption/exception request by the applicant/recipient can be a verbal request if all required information to make a determination on the request is available to the county.

Exemptions/exceptions that do not require a written request include, but are not limited to, 60 years of age or older, aid reimbursed by child support collected, grant amounts less than \$10, and receiving only supportive services.

(§42-302.3)

109-25

Requesting a disability exemption from WTW participation, the WTW 24-Month Time Clock, and the CalWORKs 48-month time limit is a single process. A client may request an exemption verbally or in writing (MPP §42-302.3). This can be done at application, on a Semi Annual Eligibility Status Report (SAR 7, Question #13), or as an informal written or verbal report to the CWD at any time.

When a client informs the CWD of a disability that is impairing his or her ability to be regularly employed or participate in WTW activities, the CWD shall document the situation in the client's case file and explain to the client that medical verification is necessary to process his or her request. The CWD then must provide the client with the CalWORKs Exemption Request Form (CW 2186A) and the Authorization to Release Medical Information (CW 61) in order for the client to complete his or her request (MPP §42-302.3).

(All County Letter No. 15-08, January 21, 2015)

109-26

The form to request an exemption or exception to the 48-month time limit shall include, but is not limited to, the following:

- (a) A description of the exemptions to the 48-month time limit, provided in §42-302.21, and a description of the 48-month time limit exceptions, provided in §42-302.11.
- (b) A statement that the individual may need to provide documentation to substantiate some exemptions/exceptions.
- (c) A statement of exemptions from the time limit that do not require a written request.
- (d) A statement that the individual will be informed, in writing, as to whether the exemption/exception was granted or not and the reason for the determination.

- (e) A statement that the individual may request a State hearing to appeal a denial of an exemption/exception request.

109-27

The county shall inform the individual, in writing, of the exemption/exception determination within 15 calendar days from the date of receipt of a verbal or written request for an exemption/exception to the 48-month time limit. The specified time limit may be exceeded when completion of the determination is delayed because of circumstances beyond the control of the county. The case record must specify the cause for delay. These instances include:

- (a) Inability on the part of the recipient to provide the necessary verification.
- (b) Delay on the part of an examining physician to provide the necessary information.

(§42-302.32)

The county shall first research all available and relevant case records before requesting additional verification from the recipient.

(§42-302.33)

109-28

The notice of action approving or denying a request for an exemption or exception to the 48-month time limit shall state whether the request was granted or denied, and the reason for the denial. (§42-302.34)