070-1 ADDED
7/15Effective July 1, 2015, a pregnant woman age 19 or older, with no other eligible children in the home, may be eligible for CalWORKs cash aid and $47 in pregnancy special need (PSN) payments beginning in the second trimester of pregnancy.
(Welfare and Institutions Code §11450 as modified by AB 1579, ACL 15-38.)

070-3 REVISED 9/07
A pregnant woman who has been aided for the last three months of her pregnancy and gives birth prior to the anticipated delivery date, may be eligible for retroactive benefits extending back three months prior to the actual month of the baby's birth. (§44-209.235)

070-4
As of January 1, 1999 state law provides that for purposes of determining eligibility under this chapter, and for computing the amount of aid payment under W&IC §11450, "families shall be grouped into assistance units." (W&IC §11450.16(a), effective January 1, 1999)

071-1A REVISED 12/07
“Applicants” shall include the following persons if living in the home, and shall be listed on the applicable Statement of Facts:

1. The applicant child.

2. Children who are siblings or half-siblings of the applicant child.

3. The parents of any child listed above.

4. A pregnant woman, in a one-person AU.

5. The caretaker relative, stepparent, California domestic partner of the SSI/SSP child’s parent and second parent of an SSI/SSP child when aid is requested.

6. The caretaker relative, stepparent, California domestic partner of the child’s parent and second parent of a child who is sanctioned by the GAIN program.

7. A senior parent.

8. The sponsor of an alien.

9. The spouse or California domestic partner of persons mandatorily included in the filing unit.

(§40-118.1)

“Applicants” shall include optional persons if aid is requested for them. The county shall determine whether the appropriate individuals are included on the applicable Statement of Facts. The application, redetermination, request to add a person or request for restoration shall

be denied if the applicant refuses to include on the application any individual listed above. (§§40-118.2 and .4)

071-1B ADDED 12/07
California Domestic Partner "California Domestic Partner" means an individual who:

(A) has a Declaration of Domestic Partnership registered with the California Secretary of State or

(B) is a member of a legal union, other than a marriage, of two persons of the same sex, validity formed in another jurisdiction, and substantially equivalent to a California registered domestic partnership.

(§80-301(c)(1))

071-1C ADDED 12/07
"Stepparent" means a person who is not the biological parent, but is either married to, or the California domestic partner of, the parent of the child. (§80-301(s)(9))

071-1D ADDED
5/16Marriages in California between two people of the same sex are valid if the marriages occurred during two time periods. The first time period was between June 16, 2008, and November 4, 2008. The second period is any time on or after June 13, 2013. Same-sex marriages performed in other states, valid in the state at the time in which the marriage was performed, are recognized as valid in California, regardless of the date on which the marriage took place.

Same-sex spouses in valid marriages as described above are extended the same rights and responsibilities as other spouses in the CalWORKs program. They are step-parents to the other spouse's children, unless they are the natural or adoptive parent of the child(ren). In that case, they shall be treated like every other parent.
(All County Letter. 16-13, March 28, 2016)

071-2A REVISED 8/04
The AU shall be established when all eligibility factors have been met and aid has been authorized.

Every AU shall include at least one eligible child, or a pregnant woman, or the caretaker/relative of an SSI/SSP child or of a child receiving federal, state, or local foster care maintenance payments, or the relative of a child who has been sanctioned by GAIN.

The AU shall also include the following persons, if living in the home and eligible: the applicant child, any eligible sibling or half-sibling of the applicant child who meets the

age requirement, and any parent of the child or the child's eligible siblings, except an alternatively sentenced parent.

(§82-820)

071-2B ADDED 11/05
The unaided father of a pregnant woman who receives aid as an AU of one shall be added to the AU effective the first of the month following the month in which the birth was reported if adding him results in an increase to cash aid and all conditions of eligibility have been met and verification has been provided. If adding him results in a decrease, the father shall be added to the AU in the following payment period, if all eligibility conditions have been met and verification provided. (§44-205.122)

071-3
For exceptions to the mandatory inclusion requirements applicable to pregnant or parenting minors who are participants in the California Work Pays Demonstration Project, the rules in §89-201.5 govern. (Handbook §82-820.333)

071-4A
Every AU must include at least one eligible child or pregnant woman unless the only child is a Supplemental Security Income/State Supplemental Program recipient or receives federal, state, or local foster care maintenance payments, or is sanctioned by GAIN. [Note that while GAIN was replaced by the Welfare-to-Work program on January 1, 1998, the regulation has not been modified.] (§82-820.2)

071-5
The MFG child is eligible for and a recipient of aid, including special needs, and is included in the AU size for the MBSAC, but is not included in the AU size for purposes of determining the MAP. (§§44-314.2, .6)

071-7
Based on the CDSS distinction between a “sanction” and “penalty”, the following rules apply:

1. Penalties occur, and the penalized person(s) is in the AU, when the parent(s) or caretaker relative fail to provide immunization documentation of nonschool-age children; the adult does not ensure regular school attendance of a child under 16, or the child is 16 or over and is not regularly attending school; the family grant is reduced 25% due to a custodial parent's failure to cooperate with the DA; the person has been found to have committed fraud; or the dependent child has failed to comply with work requirements.

2. Sanctions apply, and the sanctioned person is not in the AU, when the custodial parent or caretaker relative does not assign child support rights; the person is a fleeing felon or has violated a condition of probation or parole; the person is a drug felon; the adult has failed to comply with work requirements; or the person fails to participate in community service activities.

(All-County Information Notice No. I-09-98, February 9, 1998, Chart)

071-8
As of January 1, 1999, state law requires that every CalWORKs AU shall include at least one of each of the following:

(A) An eligible child;

(B) The caretaker relative of a child who would be eligible for CalWORKs except for the fact the child receives Supplemental Security Income(SSI) benefits or foster care payments under W&IC §11461.

An AU may also consist of a pregnant woman, eligible under W&IC §11450(c).

(W&IC §§11450.16 (b)(1) and (2), effective January 1, 1999)

Every AU shall include, in addition to the persons listed above, the "eligible parents of the eligible child and the eligible siblings, including half-siblings, of the eligible child when those persons reside in the same home as the eligible child." [Emphasis added] This rule does not apply to alternately sentenced offenders, living in the home of the eligible child but considered absent parents. (W&IC §11450.16(c), effective January 1, 1999)

072-1A
In addition to those relatives who must be included in the AU, other eligible relatives living in the home may be included in the AU upon request of the applicant or recipient. At the time of application, redetermination, or at any other time the recipient informs the county of any additional relatives in the home, the county shall identify for the applicant or recipient which additional relatives in the home may be included in the AU, and the county shall advise the applicant or recipient of the effect of including or excluding such relative(s). This advice shall include a description of the AU composition which will result in the maximum aid to which the family is eligible. (§§82-820.3 and 82-828.1)

072-2
State law provides that the family comprising the CalWORKs AU has the option to include in the AU: the nonparent caretaker relative of the eligible child; the spouse of the parent of the eligible child; otherwise eligible nonsibling children in the care of the caretaker relative of the eligible child; and the alternately sentenced offender parent of the eligible child. (W&IC §11450.16(d), effective January 1, 1999)

072-3 ADDED
5/16Effective January 1, 2016, the CalWORKs Assistance Unit shall include a deceased child for the month in which his/her death occurred, and the following month.
(Welf. & Inst. Code § 11450.05(a); ACIN I-13-16, February 29, 2016.)

073-1 ADDED 9/07
A person who does not meet citizenship/alien status requirements is excluded by law from the AU. (§§82-832(b))

073-1A ADDED 9/07
A child living with his/her minor parent who is receiving AFDC-FC or Kin-GAP is excluded by law from the AU (§§82-832(a))

073-2A REVISED 9/07
The father of an unborn child living in the home with the pregnant woman is to be excluded from the AU unless the father is the parent or caretaker relative of an eligible child. (§82-832(c))

073-3 REVISED 9/07
A person who receives SSI/SSP, RRP, Kin-GAP or AFDC-FC is excluded from the AU. (§82-832.1(d))

073-3A
A recipient of benefits under §1619(b) of the Social Security Act §42 United States Code §1382h(b) shall be considered an SSI recipient for purposes of the CalWORKs program. The §1619(b) recipient shall therefore be excluded from the AU, and the recipient's income and resources shall be treated the same as any other SSI recipient's. (All-County Letter No. 01-35, June 18, 2001; §§82-832.1(e) and 44-133.21)

073-4
After appropriate notice, documentation must be provided that all children in the AU who are not required to be enrolled in school have received all age appropriate immunizations. If there is no evidence of exemption from immunization requirements, then the needs of all parents or caretaker relatives in the AU shall not be considered in determining the AU's grant. (W&IC §11265.8(a); All-County Letter No. 97-70, October 28, 1997; §§40-105.4(c) and (g), effective July 1, 1998)

073-5
When immunization or school attendance documentation is required but not submitted, penalties for the parent(s) or caretaker relative (i.e., exclusion from the AU for purposes of eligibility determination and grant computation) are applied the first of the month following timely notice. (All-County Letter (ACL) No. 97-70, Attachment 8, October 28, 1997; §§40-105.5(g), 40-105.5(e), effective July 1, 1998)

Once verification of immunization or school attendance is submitted, the parent's or caretaker relative's needs are included in the AU effective the first of the month following the month in which verification is received. (ACL No. 97-70, p.3; §§40-105.4(h), 40-105.5(g), effective July 1, 1998)

073-6

All children in an AU for whom school attendance is compulsory, i.e., ages six to 17, except those eligible for Cal-Learn, or subject to a county school attendance project (in Merced and San Diego counties), shall be required to attend school. (W&IC §11253.5(a); §§40-105.5(a) and (c))

Once informed of the attendance requirement, the recipient shall cooperate with the county in providing documentation of the child(ren)'s school attendance, when the county determines documentation is appropriate. (W&IC §§11253.5(b) and (c); §40-105.5(b))

If the county determines that an eligible child under the age of 16 is not regularly attending school, the needs of all adults in the AU shall not be considered in computing the grant for the AU, unless good cause exists. If the eligible child is over 16, and does not meet attendance requirements, that child's needs shall not be considered in computing the grant. (W&IC §§11253.5(d) and (e); 40-105.5(d))

073-6A
There is no penalty applied to the Kin-GAP AU when the Kin-GAP child lacks immunizations, or fails to attend school, and the child is under 16. (All-County Letter No. 01-64, September 10, 2001, Answer 27, interpreting §§40-105.4(g) and 40-105.5(d))

073-6B
A Kin-GAP child age 16 or over who fails to attend school remains aided, although the child receives no aid payment and the case becomes a zero basic grant case. (All-County Letter No. 01-64, September 10, 2000, Answer 5, interpreting §40-105.5)

073-7
The following individuals are excluded by law from the CalWORKs AU:

1. Persons fleeing to avoid prosecution, or custody and confinement after conviction, for a crime or attempt to commit a crime that is classified as a felony. The existence of an arrest warrant is presumed to be evidence of fleeing, which can be rebutted if the individual can show he/she did not know that law enforcement was seeking him/her.

2. Persons violating a condition of probation or parole imposed under federal or state law, whether or not the initial offense was a felony.

(W&IC §11486.5(a); §82-832.19, amended and renumbered to §82-832.1(i) and (j) effective May 1, 1999, and then to §82-832.1(h) and (i), effective February 28, 2002)

As of January 1, 1998, "Fleeing to avoid prosecution, or custody and confinement after conviction" means a warrant for arrest has been issued; and "Violating a condition of probation or parole" means a warrant for a crime that violates a condition of probation or parole has been issued, or an order has been issued revoking probation or parole. (All-County Letter No. 97-65, p. 5, October 29, 1997)

073-8 REVISED 9/08
An individual shall be ineligible for aid under this chapter if the individual has been convicted in state or federal court after December 31, 1997, including any plea of guilty or *nolo contendere*, of a felony that has as an element the possession, use, or distribution of a controlled substance, defined in Section 102(6) of the Controlled Substances Act (21 U.S.C. Sec. 802(6)) or Division 10 (commencing with Section 11000) of the Health and Safety Code.)

(Welfare and Institutions Code (W&IC) §11251.3(a))

Those persons who have committed a drug-related felony after August 22, 1996, and have been convicted (including conviction based on a "guilty" or "*nolo contendere*" plea) as a drug felon in a state or federal court after December 31, 1997, shall be excluded from the AU as a matter of law. (§82-832.1(j), as renumbered from (k) effective February 28, 2002) Prior to May 1, 1999, the exclusion applied only when the drug-related felony occurred after August 22, 1996. (§82-832.20, effective July 1, 1998, and repealed effective May 1, 1999)

073-9
Counties must issue vouchers or vendor payments for at least rent and utilities when an otherwise mandatorily included person is determined to be a drug felon under W&IC §11251.3. However, this restricted issuance is not required when the excluded person is a fleeing felon. (All-County Letter No. 97-66, p. 5, October 29, 1997; W&IC §§11251.3 and 11486.5; §44-307.11, effective July 1, 1998)

073-10
State law provides that for purposes of determining the Maximum Aid Payment (MAP), and for no other purpose, the number of needy persons in the same family shall not be increased for any child born into a family that has received aid continuously for the 10 months prior to the birth of the child. Aid shall be considered continuous unless the family did not receive aid for two consecutive months. (W&IC §11450.04(a), see also §§44-314.2, .32, and .6)

In order for this section to apply, notification must be provided to applicants or recipients in writing. "The notification required by this section shall set forth the provisions of this section and shall state explicitly the impact these provisions would have on the future aid to the assistance unit. This section shall not apply to any recipient's child earlier than 12 months after the mailing of an informational notice as required by this subdivision." (W&IC §11450.04(f))

073-10A REVISED 8/04
Under state regulations, in order for the Maximum Family Grant (MFG) limitations to apply, the AU must have "... received written notice of the MFG at least ten months prior to the birth of the child...." (§44-314.31)

In addition, if the AU has had a break in aid of at least two consecutive months during the ten months prior to the month of birth of the child, the MFG rule will not apply. (§44-314.32)

For MFG purposes, months in suspense (see §44-315.8 prior to implementation of QR/PB) and months in which the AU was eligible for a zero basic grant (see §44-315.9) are considered months in which the AU did not receive aid. (§44-314.143, effective July 1, 2001, implementing the August 25, 2000 San Francisco County Superior Court, Class Action No. 310867, Settlement Agreement and Stipulation for Entry of Judgment in *Nickols* v. *Saenz*; All-County Letter No. 00-78, November 30, 2000).

073-10B ADDED 6/04
If a child was an MFG child when mom was receiving CalWORKs and then moves into dad's home, the MFG rule still applies to the child even if dad was not in mom's assistance unit and thus was never advised of the MFG rule. The MFG rule applies because the child was born into an assistance unit that had been receiving aid for ten months prior to the birth of the child. When the child moves in with dad, the MFG rule continues to apply as long as written notice of the MFG rule was provided to the mom's assistance unit. (All -County Letter 01-82, question and answer 23, November 26, 2001)

073-10C ADDED 6/04
The MFG continues to apply until the AU has not received aid for at least 24 consecutive months. §44-314.4

073-10D ADDED 2/14
CDSS procedure which does not include the MFG child in the “family MAP” for purposes of allocating income is correct. (*Sneed* v. *Saenz*, 16 Cal. Rptr. 3d 563 - Cal: Court of Appeal, 4th Appellate Dist., 1st Div. 2004)

073-10E ADDED
7/16Welfare and Institutions Code Section 11450.04 requires that applicants and recipients be informed of the provisions of the law pertaining to MFG prior to application of the rule in computing aid payments for Assistance Units (AUs). ACL 96-37 advised CWDs that in order to implement the notice requirements of AB 473, the California Department of Social Services (CDSS) would mail an informing stuffer, TEMP 2102, to all recipients of Aid to Families with Dependent Children (AFDC) for receipt by July 31, 1996. The TEMP 2102 provided detailed information, in English and Spanish, regarding the MFG rule, implementation date, and circumstances under which an AU would be exempt from the MFG rule.

In order to establish the mailing list for receipt of the stuffer, the CDSS used the Medi-Cal Eligibility Data System (MEDS) to identify active AFDC cases with aid codes of 30/3R (Family Group) and 35/3P (Unemployed Parent) in the month of July 1996. The MEDS listing included the same addresses used for mailing the AFDC warrants for August I, 1996 to ensure the informing stuffer would reach the recipient. This informing stuffer was mailed to all AFDC recipients during the last week of July 1996, with the last notice being mailed for intended receipt no later than July 3, 1996.

Should a question arise regarding whether a particular recipient received the TEMP 2 102 during the July 1996 CDSS mailing, information in this ACIN should be used in conjunction with CWD records to establish that proper notification occurred. CWDs must first establish that the client was an active AFDC (aid code 30/35,3R/3P) recipient in July 1996. The CWD must then

show that there were no documented problems with the mailing address during the time of the CDSS mailing and that the recipient received his/her August 1, 1996 warrant.
Once, these facts have been established, if CWDs provide this ACIN and can attest to the linkage between their caseload database and the MEDS database, it should support the contention that if the recipient received their August 1, 1996 warrant, they should also have received the MFG informing stuffer mailed by the CDSS.

(All County Information Notice 1-62-98; October 20, 1998)

073-11
State regulations provide that the MFG shall not apply when:

.51 Rape: The child was conceived as a result of an act of rape, as defined in Sections 261 and 262 of the Penal Code, and

.511 The rape has been reported to a law enforcement agency, medical or mental health professional or an organization that provides counseling to victims of rape prior to, or within three months after, the birth of the child.

(a) The recipient shall provide written verification from one of the entities listed above, that the incident of rape was reported and the date that the report was made.

.52 Incest: The child was conceived as a result of incest, as defined in Section 285 of the Penal Code, and

.521 Paternity has been established, or

.522 The incest has been reported to a law enforcement agency, medical or mental health professional or an organization that provides counseling to victims of incest prior to, or within three months after, the birth of the child.

(a) The recipient shall provide written verification from one of the entities listed above that the incident of incest was reported and the date the report was made.

.53 Contraceptive Failure: It is medically verified that the child was conceived as a result of the failure of:

.531 An intrauterine device, or

.532 Norplant, or

.533 The sterilization of either parent.

.54 Unaided Caretaker Relative: The child was conceived while either parent was an unaided nonparent caretaker relative.

.55 Not Living with Parent: The child is not living with either parent

(§44-314.5)

073-11A
Under state law, one reason the MFG limitations do not apply is because the child was "... conceived when either parent was a nonneedy caretaker relative." (W&IC §11450.04(d)(2))

073-11B REVISED 6/04
It is the position of the CDSS that if the parent of the child is living in the home but is not in the AU (ineligible alien, sanctioned or SSI parent) that MFG rules will apply, because the parent is receiving aid on behalf of her/his eligible child(ren). (All-County Letter No. 97-29, April 30, 1997 Attachment 1, #12, All-County Letter 01-82, question and answer 24, November 26, 2001)

073-11C
MFG rules shall not apply when a teen or former teen parent, who has met the age requirements in §42-101 at the time of the child's birth, establishes his or her own AU. When that new AU is established, the MFG rule shall not apply to any existing child of the teen or former teen parent, or to any child born to such parent during the first ten months after the new AU is established. (§44-314.56, as added effective July 1, 2001, implementing the *Nickols* v. *Saenz* court order of August 25, 2000)

073-11D ADDED 6/04
The MFG rule will not apply when the county receives medical verification that the pregnancy occurred as the result of failure of Depo-Provera. (All-County Letter 01-82, question and answer 18, November 26, 2001)

073-11E ADDED 6/04
The MFG rule does not apply to the child of a minor parent who was unaided, even if his/her senior parents and/or siblings have been on aid for at least ten months before the baby was born. The MFG rule would apply if the minor parent received aid for another child. . (All-County Letter 01-82, question and answer 25, November 26, 2001)

073-11F ADDED 6/04
The MFG rule does not apply if the child is not living with either parent. (§44-314.55, W&IC §11450.04.)

073-11G ADDED 9/07
Counties must develop criteria for waiving program requirements for as long as domestic abuse prevents the individual from obtaining employment or participating in WTW activities. CDSS strongly encourages counties to ensure that these written criteria are comprehensive and focused on meeting the needs of domestic abuse victims. In developing criteria, counties can establish the duration of waivers as long as the granting of waivers complies with State and federal regulations

Question: Are counties allowed to waive the Maximum Family Grant (MFG) rule pursuant to MPP Section 44-314.3 - .4 for victims of domestic abuse?

Answer: Counties may waive the MFG rule, on a case-by-case basis, when it is determined that compliance would put at further risk or unfairly penalize those who are or have been victimized by such abuse. The MFG rule could be waived permanently for a child even if the domestic abuse situation is resolved or no longer exists. However, the county must make a separate determination of eligibility for an exemption to the MFG rule or a domestic abuse waiver, for any subsequent child.

(ACIN I-02-06, question and answer 11, January 9, 2006)

073-12
The MFG child is eligible for and a recipient of aid, including special needs, and is included in the AU size for the MBSAC, but is not included in the AU size for purposes of determining the MAP. (§§44-314.2, .6)

073-12A
Effective April 1, 2001, the following payments shall be exempt income for CalWORKs grant computation purposes when the case is subject to the MFG rule:

1. Child support payments from the absent parent for the MFG child, no matter to whom the payment is sent.

2. Derivative benefits from Social Security of other government programs based on the absent parent's disability or retirement, paid to or on behalf of the MFG child, when those benefits satisfy, in whole or in part, the absent parent's child support obligation.

(All-County Letter No. 01-16, March 2, 2001, implementing the *Kehrer* v. *Saenz* court order; see also §44-314.62, amended effective July 1, 2001 and §44-314.621, added effective July 1, 2001)

073-13
In the Settlement Agreement in *Nickols* v. *Saenz*, CDSS agreed to do the following:

1. Revise the MFG informing notice to more clearly explain the application of the MFG rule.

   (a) CDSS will send the Revised MFG Informing Notice to all current recipients and county welfare departments (CWDs) in August 2000. [CDSS implemented this part of the agreement by issuing All-County Information Notice No. I-82-00, August 21, 2000.]

   (b) CDSS will direct CWDs to use the Revised MFG Informing Notice with the written acknowledgment to explain the MFG rule to recipients at redetermination and to applicants at application. CDSS will direct CWDs to have applicants and recipients complete the acknowledgment of receipt at the bottom of the Revised

MFG Informing Notice, provide a copy of the signed Revised MFG Informing Notice to the applicant or recipient and retain a copy in the case file.

2. Issue an All-County Letter (ACL) no later than November 30, 2000. The MFG policy described in this paragraph and this ACL will be effective September 1, 2000. The ACL will instruct CWDs to apply the MFG rule as follows:

   (a) The MFG rule does not apply to a child born to a teen parent who met the age requirements in §42-101 at the time the child was born, if the assistance unit (AU) did not receive the Revised MFG Informing Notice ten months before the child was born. This may increase the grant for an AU containing a child subject to the MFG rule. The MFG rule will begin to be applied to a child born to a teen parent who meets the age requirements in §42-101, ten months after the Revised MFG Informing Notice has been provided to the AU (approximately July 2001) if no other exemptions apply.

   (b) The MFG rule will not apply to the child of a teen parent, who met the age requirement in §42-101 at the time the child was born, when the teen parent becomes the head of his or her own AU. When a teen who was aided as a dependent child establishes his or her own AU, the MFG rule will apply to any child born at least ten months after the teen is provided written notice of the MFG rule as provided in paragraph (1), if no other exemptions apply.

   (c) Beginning November 1, 2001, the MFG rule will apply to an AU only if the county provided the Revised MFG Informing Notice at application, redetermination, through the August 2000 mass mailing or other date at least ten months before the birth of the child. Beginning November 1, 2002, the MFG rule will apply to the AU only if the case file contains a copy of an acknowledgment signed by the head of household that they received the Revised MFG Informing Notice, or other written acknowledgment signed by the head of household.

   (d) An AU will not be considered to have ten continuous months on aid if they did not receive aid for two consecutive months. Months in which a family is eligible for a zero basic grant, as defined in §44-315.8 or suspense months, as defined in §44-315.9, will be considered a month in which the family did not receive aid, for purposes of the MFG rule.

(*Nickols* v. *Saenz*, San Francisco County Superior Court, Class Action No. 310867, Settlement Agreement and Stipulation for Entry of Judgment, August 25, 2000)

The CDSS issued an ACL in accord with the *Nickols* settlement agreement. This ACL included notices designed to implement that agreement. (ACL No. 00-78, November 30, 2000)

073-13A ADDED 9/07

Counties must provide the CW 2102 at application and at every annual redetermination. This form must be signed and dated by the applicant/recipient each time it is provided. A copy is to be given to the applicant/recipient and the original must be maintained in the case file.

If there is no signed CW 2102 or original in the case file verifying that the applicant/recipient was notified of the MFG rule at application or the most recent redetermination at least 10 months before the child's birth, whichever is later, the MFG rule does not apply.

Example 1:

A child was born on November 5, 2006, into a CalWORKs AU that has been on aid since December 2002. The family's most recent redetermination was in December 2005. For the MFG rule to apply, the family's CalWORKs case file must contain a signed acknowledgement of receipt of the CW 2102 from the redetermination in December 2005.

Example 2:

A CalWORKs AU has been on aid since August 2004 and their new child was born on October 2, 2006. The family was redetermined and signed the CW 2102 in July 2005. The family's July 2006 redetermination was completed but the CW 2102 is missing from the case file. The MFG rule applies to the new child because the CalWORKs case file contains a signed CVV 2102 from the most recent redetermination (July 2005) that is at least ten months before the child's birth. Although there was a more recent redetermination in July 2006, it did not occur at least 10 months prior to the birth of the child, so the CW 2102 signed in July 2005 would be the applicable CW 2102 in this case situation.

Example 3:

A CalWORKs AU signed the CW 2102 and has been on aid since July 2005, they go off aid March 1, 2006, and are reinstated on April 10, 2006. They are redetermined and their CW 2102 is signed in July 2006. A new child is born August 3, 2006, and the MFG rule applies to the new child because the family had a break-in-aid of less than two consecutive months during the ten months before the birth of the child and there is an applicable CW 2102 in the case that was signed in July 2005.

(All County Information Notice I-29-07, May 25, 2007)

073-13B ADDED 8/14

MFG child means the child, or children in the case of a multiple birth, that is not included in the AU size for the purpose of determining the MAP. (§44-314.14)

073-14

It is the policy of the CDSS that:

1. A "sanction" results when an individual is taken out of the AU for failure to comply with program requirements, e.g., a failure to meet work requirements or a refusal to assign support rights;

2. A "penalty" results when, because of noncompliance, the grant is reduced or the individual's needs are not considered in computing the grant, e.g., a parent's failure to provide documentation that his/her child is immunized or attending school regularly.

(All-County Information Notice No. I-09-98, February 9, 1998)

073-14A
Based on the CDSS distinction between a “sanction” and “penalty”, the following rules apply:

1. Penalties occur, and the penalized person(s) is in the AU, when the parent(s) or caretaker relative fail to provide immunization documentation of nonschool-age children; the adult does not ensure regular school attendance of a child under 16, or the child is 16 or over and is not regularly attending school; the family grant is reduced 25% due to a custodial parent's failure to cooperate with the DA; the person has been found to have committed fraud; or the dependent child has failed to comply with work requirements.

2. Sanctions apply, and the sanctioned person is not in the AU, when the custodial parent or caretaker relative does not assign child support rights; the person is a fleeing felon or has violated a condition of probation or parole; the person is a drug felon; the adult has failed to comply with work requirements; or the person fails to participate in community service activities.

(All-County Information Notice No. I-09-98, February 9, 1998, Chart)

073-14B
When a person is "penalized", the person remains in the AU but does not have his or her needs considered. In determining eligibility for certain payments, the CDSS has interpreted this exclusion as follows:

(1) In Homeless Assistance (HA) cases, the cost of permanent housing must not exceed 80% of the AU without the penalized person, under §44-211.531.

(2) When the AU receives income in kind, the in-kind value does not include the penalized person's needs, under §44-115.3.

(3) When issuing a Reduced Income Supplemental Payment, payment is limited to 80% of the Maximum Aid Payment, excluding the penalized person, under §44-400.

(4) The penalized person is not eligible for a special need payment, under §§44-211.2-.4, and .6.

(All-County Letter No. 99-76, September 30, 1999)

074-1A
A "parent" means the biological parent unless the child has been adopted or relinquished for adoption or parental rights have been terminated. If adoption occurs, the person who adopts the child is the parent. When the biological parent's parental rights are terminated, the person is no longer a "parent" of the child, but the biological parent and his/her relatives (as defined in §82-808.11) are still considered "caretaker relatives" for purposes of 82-808.12. (§80-301p.(1))

074-2A
In order to be eligible for CalWORKs (formerly AFDC)-FG/U payments a child must be living in the home of a caretaker relative. (§82-804.1)

074-2B ADDED
10/15Any nonparent relative who has been determined to be the caretaker relative is an optional member of the Assistance Unit. (§82-828.2)

074-3A REVISED 12/07
The caretaker/relative of an eligible CalWORKs (formerly AFDC) child shall be related to the child as follows: The caretaker/relative may be any relative by blood, marriage or adoption who is within the fifth degree of kinship to the eligible child. This includes a parent, grandparent, sibling, great-grandparent, uncle or aunt, nephew or niece, great-great grandparent, great-uncle or aunt, first cousin, great-great-great grandparent, great-great uncle or aunt, or a first cousin once removed; or the stepfather, stepmother, California domestic partner of a parent, or stepbrother, or stepsister; or the spouse or California domestic partner of any person named above, even after the marriage has been terminated by death or dissolution; or a person who legally adopts the child, or that person's relatives, as specified. (§82-808.1)

A second cousin is not a first cousin once removed, is not within the 5th degree of kinship, and thus does not qualify as an appropriate caretaker/relative. (All-County Letter No. 94-01, January 10, 1994)

074-3B ADDED 9/13
The degree of kinship or consanguinity between two persons is determined by counting the number of generations separating those persons, pursuant to subdivision (b) or (c). Each generation is called a degree.
(b) Lineal kinship or consanguinity is the relationship between two persons, one of whom is a direct descendant of the other. The degree of kinship between those persons is determined by counting the generations separating the first person from the second person. In counting the generations, the first person is excluded and the second person is included. For example, parent and child are related in the first degree of lineal kinship or consanguinity, grandchild and grandparent are related in the second degree, and great-grandchild and great-grandparent are related in the third degree.
(c) Collateral kinship or consanguinity is the relationship between two people who spring from a common ancestor, but neither person is the direct descendent of the other. The degree of kinship is determined by counting the generations from the first person up to the common ancestor and from the common ancestor down to the second person. In counting the generations, the first person is excluded, the second person is included, and the common ancestor is counted only once. For example, siblings are related in the second degree of collateral kinship or consanguinity, an aunt or uncle and a niece or nephew are related in the third degree, and first cousins are related in the fourth degree.
(California Probate Code, Section 13)

074-3C
A caretaker relative is a relative who lives with a child who is part of the filing unit and exercises responsibility for the day-to-day care and control of the child. (§80-301c.) The caretaker relative

may be any relative by blood, marriage, or adoption who is within the fifth degree of kinship to the eligible child. (§82-808.1)

074-3D REVISED 12/07
Evidence necessary to verify the relationship of the child to a caretaker relative includes birth certificates, government records, church records, court records, Declaration of California registered domestic partner, divorce papers or termination of California registered domestic partnership, hospital or public health records of birth and parentage, school records, and insurance records. If all efforts to obtain other evidence have failed, a sworn statement signed by the caretaker relative is acceptable when the evidence is not conflicting and the attempts to obtain verification are documented in the case record. (§82-808.14)

074-3E ADDED
12/15The following factors shall be considered when determining responsibility for care and control. A single factor may not be determinative. The factors include, but are not limited to:

Deciding where the child attends school or child care.

Dealing with the school on educational decisions and problems.

Controlling participation in extracurricular and recreational activities.

Arranging medical and dental care services.

Claiming the child as a tax dependent.

Purchasing and maintaining the child's clothing.
(§82-808.3)

074-4
In cases where there is a question as to parentage, the matter should be referred to the District Attorney for resolution. (Section 41-403.2, referring to §43-201.1)

When an AFDC (now CalWORKs) applicant child is not living with both parents, and when the child's parents are unmarried and paternity has not been established by a court order, the matter is referred to the DA so that the DA may locate the absent parent(s), establish paternity, and/or obtain a child support order. (§§43-201.1 and .2)

The DA will not undertake to establish paternity or secure support in any case in which the caretaker relative has established good cause for failing to cooperate with the DA, unless there has been a determination that child support enforcement may proceed without the participation of the caretaker relative. (§43-201.17)

074-5

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 §270 of the Penal Code. (Handbook §41-403.21, referencing Civil Code (Civil Code) §7010(a))

Handbook §41-403.22 sets forth certain presumptions as to parentage from the California Codes. Civil Code §7004 (recodified as Family Code §7611, effective 1/1/94) provides that a man is presumed to be the natural father of a child if he meets the conditions set forth in Family Code §7540 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) He and the child's natural mother have attempted to marry each other before the child's birth, 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 by death, annulment, declaration of invalidity or divorce; or is born during the attempted marriage, or within 300 days after its termination

(ii) If the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation.

(3) He and the child's natural mother have married or attempted to marry, after the child's birth, in apparent compliance with law, although the attempted marriage is or could be declared invalid, or

(i) He is named as the child's father on the birth certificate with his consent, 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.

Except as provided in Family Code §7540, these are rebuttable presumptions, but they may be rebutted only by clear and convincing evidence. If two or more presumptions conflict, the presumption(s) which on the facts is founded on the weightier considerations of policy and logic controls. These presumptions are rebutted by a court decree establishing paternity of the child by another man. (Family Code §7612)

Family Code §7540 provides that the issue of a wife, cohabiting with her husband, who is not impotent or sterile, is conclusively presumed to be a child of the marriage unless the court finds that the conclusions of all the experts, as disclosed by the evidence based upon blood tests performed pursuant to Family Code §7550 et seq., are that the husband is not the father of the child, in which case the question of the husband's paternity shall be resolved accordingly.

Health and Safety Code §10577(a) provides that any birth, fetal death, death or marriage record which was registered within a period of one year from the date of the event, or any copy of such

record or part thereof, properly certified by the State or local registrar, or county recorder, is prima facie evidence in all courts and places of the facts stated therein.

074-6 ADDED 12/07
When the county learns of the death of a parent caretaker or other caretaker relative of a child receiving CalWORKs benefits, the county shall determine whether the child remains eligible for CalWORKs.

If the county determines that the child is still eligible for CalWORKs, the county shall assist the child and his/her new caretaker relative with the process needed to ensure that CalWORKs benefits continue for the child. If the county determines that the child is no longer eligible for CalWORKs because he/she is living with a non-relative caretaker rather than a relative caretaker, the county should inform the child's non-relative caretaker that Aid to Family with Dependent Children (AFDC)-Foster Care benefits may be available for the child. (All County Information Notice I-36-07, June 27, 2007)

075-1A REVISED 9/07
If two or more AUs reside in the same home, they shall be combined into one AU in the following instances:

(1) There is a common caretaker relative for the eligible children.

(2) One caretaker relative marries another caretaker relative.

(3) Two caretaker relatives are the parents of an eligible child.

(§82-824.1; W&IC 11450.16(e), effective January 1, 1999)

075-1B
An "eligible child" is one who meets all linking and nonlinking eligibility factors [emphasis added] as defined in §40-107.3 and who is not excluded by law. (All-County Letter No. 94-01, January 10, 1994)

075-1E REVISED 4/10
Following the *Edwards* v. *Carleson* decision by the U.S. Supreme Court, the CDSS reinstated the policy of combining nonsibling AUs when there is only one caretaker relative. Current cases should have been combined effective August 1, 1995, and new cases were also to be combined as of that date.

Two or more AUs in the same home shall be combined into one AU when there is only one caretaker relative. (§82-824.13)

075-2A
If a child stays alternately for periods of one month or less with each of his/her parents who are separated or divorced, in most circumstances the caretaker/relative is the parent with whom the

child stays for the majority of the time. The temporary absence of the parent or the child from the home does not affect this determination. The parent with whom the child stays for less than the majority of the time may be the caretaker/relative, if the parent can establish that he or she has majority responsibility for the care and control of the child. When the child spends an equal amount of time with each parent and each parent exercises an equal share of care and control responsibilities, the parent who applies for aid shall be the caretaker/relative provided that the child's other parent is not currently applying for or receiving aid for the child. (§82-808.4)

075-2B
When each parent exercises an equal share of care and control responsibilities, and each has applied for aid, the caretaker/relative shall be determined in the following order:

(a) The parent designated as the primary caretaker for purposes of public assistance, by a court order, pursuant to Civil Code §4600.5(h), revised to Family Code §3086, effective 1/1/94.

(b) The parent who would be eligible for aid, when there is no court designation.

(c) The parent designated by mutual agreement when both parents would be eligible.

(d) The parent who first applied for aid, when the parents cannot mutually agree.

(§82-808.413)

075-2C
When a child stays alternately for periods of one full calendar month (as defined in §82-812.5) or more with different persons who are not living together, the caretaker relative shall be the person with whom the child is staying at the time. That person will have to apply for aid on behalf of the child. (§82-808.42, effective May 1, 1997)

It is the position of the CDSS that, in joint custody situations, (despite the fact that §82-808.413 remains unchanged) children who alternate living arrangements of more than one full calendar month can no longer be considered temporarily absent from the home of the caretaker relative of the child. (All-County Letter No. 97-14, March 11, 1997)

075-2D
For purposes of §§82-808.4 and 82-812.5, "one full calendar month" shall be from the first of the month through the last day of the month. (§82-812.51) If the individual has been absent for the entire month, but less than 30 days, the calendar month is not completed until the individual has been absent for 30 days. (§82-812.51(a))

Based on the above, if an individual leaves for a visit on February 2, and returns on March 16, the individual has not been gone for one full calendar month. (Handbook §82-812.52(a)) Likewise, an individual who leaves on February 1 (in a nonleap year) has not been gone for one full calendar month until March 3. (Handbook §82-812.52(c))

075-4 ADDED 11/05
When a voluntary report is made that would combine separate AUs mid-payment period, the county shall determine if the mid-payment period action combining the AUs would increase or decrease aid for the separate AUs. The county shall compare the monthly grant for the combined AUs to the total combined monthly grants of the separate AUs.

If the combined AU's monthly grant would be higher than the total combined monthly grant of two separate AUs, the county shall take mid-payment period action to combine the AUs the first of the month following the voluntary report.

If the combined AU's monthly grant does not result in an increase to the total combined monthly grant of the separate AUs, the county shall not take mid-payment period action to combine the AUs, but shall combine the separate AUs the first of the next payment period after the change is reported on the QR 7/SAR 7/SAWS 2. (§82-824.14)

076-1A
The "home of a caretaker relative" is a family setting maintained or in the process of being established. A home exists so long as the relative assumes responsibility for the care and control of the child. An eligible child is considered to be living in the home of a caretaker relative even though the child and/or the relative is temporarily absent from the home. However, the caretaker relative must continue to have the responsibility for care and control of the child during the temporary absence. Examples of temporary absence, prior to May 1, 1997, included hospitalization, attendance at school, visiting, vacationing, moving, trips made in connection with current or prospective employment, and similar situations. (§§82-804.2, and 82-812, modified effective May 1, 1997)

076-1B
Any member of the AU shall be considered temporarily absent from the home when the absence is one full calendar month or less. For purposes of this section, one full calendar month shall be from the first of the month through the last day of the month, but the calendar month shall not be deemed completed until the individual has been absent for at least 30 days. (§82-812.51, effective May 1, 1997)

For purposes of §§82-808.4 and 82-812.5, "one full calendar month" shall be from the first of the month through the last day of the month. (§82-812.51) If the individual has been absent for the entire month, but less than 30 days, the calendar month is not completed until the individual has been absent for 30 days. (§82-812.51(a))

Based on the above, if an individual leaves for a visit on February 2, and returns on March 16, the individual has not been gone for one full calendar month. (Handbook §82-812.52(a)) Likewise, an individual who leaves on February 1 (in a nonleap year) has not been gone for one full calendar month until March 3. (Handbook §82-812.52(c))

076-2
Under federal regulations, a home is the family setting maintained or in the process of being established, as evidenced by assumption and continuation of responsibility for day-to-day care of the child by the relative with whom the child is living. A home exists so long as the relative exercises responsibility for the care and control of the child, even though either the child or the relative is temporarily absent from the customary family setting. Within this interpretation, the child is considered to be living with the relative even though: He or she is under the jurisdiction of the court and receiving probation services or protective supervision; or legal custody is held by an agency that does not have physical possession of the child. (45 Code of Federal Regulations (CFR) §233.90(c)(1)(v)(B))

076-5
Exceptions which permit a finding of temporary absence, even where an AU member is absent from the home for one full calendar month or more, include:

.62 A child in a public hospital, for up to two full calendar months.

.63 A person hospitalized (other than a child in a public hospital) for the duration of the hospital stay. Hospitalization includes a stay in a medical hospital, psychiatric care facility, or drug or alcohol rehabilitation treatment facility.

.64 A person who is employed, for the duration of the employment/job activity.

.65 A person attending an institution of higher learning, an educational school leading to a high school diploma or equivalent, or a vocational school leading to employment, for the duration of the schooling or training, if there is no such school within the vicinity of the person's home which provides the education or training.

.66 A child attending a school which meets the special needs of the child, for the duration of the schooling, when the child has an Individualized Education Plan (IEP), and no school which meets the child's needs (as described in the IEP) is located close enough for the child to live at home and attend the local school.

.67 A child in a licensed home due to a crisis situation, for the duration of the crisis, when the licensed home does not receive AFDC-FC for the child, and the caretaker relative has care and control concerning health and welfare decisions.

(§82-812.6)

076-6
Any member of the AU shall be considered temporarily absent when absent from the home for one full calendar month or less. (§82-812.5, effective May 1, 1997) The CDSS interpretation of §82-812.5 is that when an AU member is absent for more than one calendar month (as defined in §82-812.51), that individual is no longer eligible for aid unless he/she meets one of the exceptions set forth in §82-812.6. (All-County Letter No. 97-14, March 11, 1997; Handbook §82-812.52(b))

077-1
A never-married minor under the age of 18, who is pregnant or who has a dependent child in his/her care shall reside:

.11 With a senior parent; or

.12 With a legal guardian; or

.13 With a “related” individual (as specified in §82-808.1) who is at least 18 years old; or

.14 In a state licensed adult-supervised supportive living arrangement, including but not limited to a group or maternity home.

(§89-201.1, effective May 1, 1997)

The minor parent is exempt from the above requirement when the minor parent:

.21 Has no living parent or legal guardian; or

.22 Has no parent or legal guardian whose whereabouts are known; or

.23 Has no parent or legal guardian who will allow the minor parent to live in his/her home; or

.24 Would have his/her or his/her dependent child's physical or emotional health or safety jeopardized (as determined by a child protective service worker) if living in the home of the minor's parent, legal guardian, or other adult relative; or

.25 Has lived apart from the minor's parent or legal guardian for at least 12 months prior to the month of the youngest dependent child's birth, or the application for aid; or

.26 Is legally emancipated.

(§89-201.2, effective May 1, 1997)

077-1A
For CalWORKs (formerly AFDC) eligibility purposes, a "minor parent" is defined as a parent or pregnant woman who is less than 18 years of age. (§80-301m.(3)) For purposes of §89-201, which implements the CalWORKs Teen Pregnancy Disincentive plan set forth in W&IC §11254, a "minor parent" is a never-married minor, under the age of 18, who is pregnant or has a dependent child in his/her care. (§89-201.1) And for purposes of the Child Welfare Services program, a "minor parent" is defined as anyone under the age of 18 who is either pregnant or the custodial parent of a child and who has never been married. (§31-002(m)(3))

077-2A
For CalWORKs eligibility and grant determination purposes, any child support paid to a senior parent on behalf of a minor parent, who resides with the senior parent, shall not be included as minor parent income in the "excluded parent computation" set forth in §89-201.514. (All-County

Letter No. 01-15, February 28, 2001 implementing the *Dominika S*. v. *Saenz* court order, effective with the February 1, 2001 grant computations and eligibility determinations)

077-5
For exceptions to the mandatory inclusion requirements applicable to pregnant or parenting minors who are participants in the California Work Pays Demonstration Project, the rules in §89-201.5 govern. (Handbook §82-820.333)

077-6
When the minor parent is not exempt from the Minor Parent Requirement, aid shall be paid on behalf of the minor parent to the adult living in the home, or to the group maternity home, per §89-201.1. (§89-201.4)

077-7
When the minor parent who is not exempt from the Minor Parent Requirement refuses or fails to cooperate in obtaining verification of the adult's consent or refusal to act as payee on his/her behalf, the minor parent's AU is ineligible for CalWORKs (formerly AFDC). (§89-201.42)

077-8
It is the position of the CDSS that when a minor parent is living with a senior parent, exempt AU status can be established as follows:

1. If the minor parent (whether excluded or included in the AU) is the only caretaker relative in the AU, only the minor parent must meet the exemption criteria.

2. If both the senior parent and the minor parent are included in the AU, both must meet exemption criteria.

(All-County Letter No. 97-17, March 14, 1997)

077-9
When two minor parent siblings who live with their senior parent apply for aid, separate eligibility is established for each minor parent's AU based on half of the senior parent's income assumed available for deeming purposes, plus the minor's income. (All-County Letter No. 97-17, March 14, 1997)

078-1
The income of the parent (natural or adoptive) of an eligible child, and the income of the spouse of that parent, as well as the income of the eligible child's siblings who live in the child's home, plus the income of the applicant or recipient, shall be considered available for purposes of eligibility determination and grant computation. (W&IC §11008.14, effective January 1, 1998)