

Item 00-07-01A

Updated Paraphrased Regulations

This is the July 2000 update of the Paraphrased Regulations (ParaRegs). The last update was April 2000. The last new hardcopy of the ParaRegs was distributed in February 2000 to all ALJs and to two counties (San Diego and San Mateo) and two authorized representative groups (Legal Services of Northern California and Western Center on Law and Poverty). Interested parties may request a hardcopy from the appropriate contact.

The Plan is that there will be updates every two months, except during my vacation in the summer. The next projected updates are in October and December 2000, and in February, April, and June 2001.

There will be two updates of the hardcopy each year. The next update is expected to occur in October 2000.

A list of the Pararegs which have been deleted, renumbered, revised, or added will be included with each update.

As always, please remember that the Pararegs do not necessarily set forth CDSS or CDHS policy. They are the writer's best effort to select, shorten, synopsise, and simplify those court cases, laws, regulations, and written policy memoranda which deal with those areas of the law that seem to be most relevant to the State hearing process. The ParaRegs do not contain policy determinations which may have been communicated orally to the writer, but which have not been put in written form.

It should be noted that certain of the ParaRegs quote specific language from the source. A ParaReg quotes the source only when:

1. The information is technical and cannot be paraphrased.
2. It is important that the exact words used by the CDSS or CDHS be emphasized.
3. The writer of these ParaRegs cannot understand what the writers of the source material meant to say when they wrote the ACL, ACIN, ACWDL, regulation, or law.

Peter Hemenway, Administrative Law Judge Specialist

PARAREGS WHICH WERE RENUMBERED

232-1B=232-1C

REVISED

106-1 Mandatory supportive services which are necessary for participation must be provided, or good cause for nonparticipation exists (ACL 97-72; W&IC 11323.2, 11325.23(d), 11323.4(a); 42-750.1)

133-1 Treatment of child support payment when received directly by recipient (82-518.2, revised 1/18/00)

156-5 Tax intercept instructions for Tax Years 1993-2000 (ACIN I-22-00, I-19-98, I-12-97, I-11-95, I-06-94, I-13-93)

212-2 Information to be verified before certification (63-300.51)

212-10 Verification of utility costs; subject to county option (63-300.516, 63-504.341)

232-1A Qualified noncitizens who are potentially eligible for FS (63-405.11, eff. 11/1/98 per 63-031.2)

232-1C Noncitizens who were eligible for 7 years under regulations in effect from 11/1/98-3/2/00; eligibility for retroactive benefits (63-405.12, eff 11/1/98 per 63-031.2; 63-032.3)

232-1 D Noncitizens who were eligible for FS indefinitely under regulations in effect from 11/1/98-3/2/00; eligibility for retroactive benefits (63-405.13, eff. 11/1/98, per 63-031.2; 63-032.3)

232-2 B Federal law allows Hmong and Highland Laotian individuals who were tribal members of tribes which rendered assistance to the U.S. during the Vietnamese War, and the spouses, unmarried dependent children, or non-remarried widows or widowers of such person, to meet FS alien eligibility requirements (8 USC 1602(a)(2)(K); 402(a)(2) of the PRWORA of 1996; 63-405.211)

232-3 Old rule: Additional LPR requirements include veteran status or Social Security qualifying quarters (63-405.112)

232-4 How LPR may combine quarters with a spouse or parent (63-405.112(e), revised to 63-405.4)

232-4A Meaning of "quarter" and method of determining if legal alien met 40-quarter exemption (ACL 96-68; Handbook 63-405.112(e)(2)(A), revised to Handbook 63-405.43)

232-6 Philippine Army or Scouts from WWII are considered veterans (PL 105-33; ACIN I-07-98, 63-405.3)

232-7A Individuals (certain Highland Laotians, Hmongs, and members of Indian tribes) who may be eligible for FS even if they are not qualified noncitizens (63-405.2, eff. 11/1/98, per 63-031.2, revised per 63-032.3)

232-10A Old rule: CFAP eligibility criteria as revised 2/1/99 (63-403.1, revised and rescinded 3/2/00, eff. 11/198)

232-10E CFAP recipients must be exempt from work requirements, or participate (63-411.1., .2; ACIN I-01-00)

292-3 Balancing overissuances against underissuances; no offset allowed against administrative error overissuances (63-801.313; Handbook 63-801.313; Lopez v. Glickman)

295-5 Tax intercept instructions for Tax Years 1993-2000 (ACIN I-22-00, I-19-98, I-12-97, I-11-95, I-06-94, I-13-93)

296-12 No offsetting of administrative error overissuances against underissuances (ACL 96-43, 96-59; Lopez v. Espy, renamed Lopez v. Glickman; Handbook 63-801.313)

304-1A Sanction of individual who is in noncompliance with a work requirement; ending sanction (63-407.54, 63-407.543, revised eff. 2/1/00)

321-1 ABAWD requirements begin 12/1/96 or first full month after application and continue without interruption for next 36 months (63-410, 63-410.1 and .2)

321-2 Individuals exempt from ABAWD requirements (63-410.31, .32, .33)

321-4 How to fulfill the ABAWD work requirement (63-410.21, 63-032.1)

321-4 B Pre-2/1/2000, unsuitable employment work hours don't help meet 20 hour weekly work requirement; post-2/1/2000, reference to unsuitable deleted; in-kind work income may help meet that requirement (63-410.211)

321-5 Regaining ABAWD eligibility (63-410.51, 63-410.512(a))

321-5A Workfare assignment may be less than 20 weekly hours and still meet ABAWD requirement (ACL 97-08)

410-3 Face-to-face interview necessary only at time of application and not required when adding adults to MFBU (50157(a); ACWDL 99-36, 00-17)

430-8 FPL insert for use in decisions as of 4/1/00 (ACWDL 99-15, 00-10)

434-1 TB program eligibility requirements (MEPM, 5N; ACWDL 95-12, 95-39, 95-73, 98-02, 99-62)

483-2 Applicants shall be informed that they may establish eligibility by bringing property within limit during month and must be given MC 007; same rule applies to those who inquire about Medi-Cal (ACWDL 85-58, replaced by ACWDL 90-91, 91-78, 98-07, 00-11)

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613-1 Old rule: Definition of "own home" (30-701(o)(2), renumbered from 30-753(o)(2), 11/14/98, revised 3/27/00)

825-3A Classes of non-citizens who entered the U.S. on 8/22/96 or later and who may be potentially CAPI eligible (ACL 98-82; 49-020.31)

825-8 A Nonrecurring income cannot be counted more than once (Jones v. Shalala; 42 USC 1382(c)(2)(A), 49-055.21)

825-9 A County responsibilities in CAPI for SSI/SSP applications and IAR agreements (ACIN I-71-98; 49-015.1, .2, 49-030.1, .2)

1331-1 1.00 Musculoskeletal System

1332-1 2.00 Special Senses and Speech

1332-10 2.09 Organic loss of speech

1333-1 3.00 Respiratory System

1333-3 3.02 Chronic Pulmonary Insufficiency

1333-5 3.04 Cystic fibrosis

1333-8 3.07 Bronchiectasis

1333-9 3.08 Mycobacterial, mycotic, and other chronic persistent infections of the lungs

1334-1 4.00 Cardiovascular System

1335-1 5.00 Digestive System

1336-1 6.00 Genito-Urinary System

1337-1 7.00 Hemic and Lymphatic System

1338-1 8.00 Skin

1339-1 9.00 Endocrine System

1339-9 9.09 Obesity--old rule

1340-1 11.00 Neurological

1341-1 12.00 Mental Disorders

1342-1 13.00 Neoplastic Diseases—Malignant

1343-1 14.00 Immune System

1343-16 14.08 Human immunodeficiency virus (HIV) infection

NEW

104-6 Prior GAIN sanctions do not count for CalWORKs purposes (ACL 00-23)

106-1A No caps or limits on supportive services, but secondary review permitted; optional services may be different for pre-time limit and post-time limit recipients (ACL 00-12; 42-750.11)

109-5 No caps or limits on supportive services, but secondary review permitted; optional services may be different for pre-time limit and post-time limit recipients (ACL 00-12; 42-750.11)

133-7 Child/family and spousal support regulations for CalWORKs and FC (12-425, 43-203, 82-508, 82-518, 82-520; 25-900-25-925 repealed, eff. 8/12/99)

138-13 Deductions allowed from gross income from pensions, and similar sources, for income taxes and other expenses required in order to receive the income (44-113.32; ACL 00-13)

219-8 County requirements when incomplete CA 7 received (ACL 87-74; Saldivar v. McMahon)

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232-1B Qualified noncitizens who are potentially eligible for FS (63-405.11, eff. 3/2/00)

232-10C CFAP eligibility, eff. 11/1/98 (63-403.1, 63-032.3)

266-12 Earned income from census during 2/1/00-12/31/00 is exempt for eligibility and benefit level (ACL 00-18)

290-3 When monthly income report is initially filed late or incomplete, and complete CA 7 submitted by extended filing date, then no FS claim is to be submitted (Saldivar v. McMahon; ACIN I-62-89)

400-8 State must specify a single State agency to administer Medicaid program, and that agency must not delegate to others outside agency authority to exercise administrative discretion, or issue policies, rules, and regulations on program matters (42 CFR 431.10(b), (c))

410-2 C County duty to complete SAWS I when applicant calls in to apply for Medi-Cal (ACWDL 00-31)

410-3 A Elimination of face-to-face interview except when good cause or fraud exist (ACWDL 00-31)

414-11A Elimination of face-to-face interview except when good cause or fraud exist (ACWDL 00-31)

414-13 County duty to complete SAWS I when applicant calls in to apply for Medi-Cal (ACWDL 00-31)

483-2B Requirement to give all LTC applicants 10-point type forms explaining property transfers (ACWDL 00-11; W&IC 14006.3, .4)

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602-4 No interruption or overlapping of services during IHSS transfer period; responsibility of transferring county (30-759.9, .92)

602-5 Receiving IHSS county shall complete service assessment, and continue benefits (unless there has been a substantial change in living arrangements) (30-759.94)

613-1C Definitions of "own home" revised to exclude as a home board and care facilities licensed or required to be licensed; living arrangements which violate any state or local health, safety or zoning law; or a place which makes an individual homeless under United States Code; regulation enjoined 6/2/00 (30-701(o)(2), 3/27/00; *Lubahn v. Saenz*)

613-1D Emergency regulation 30-701(o) prohibited, enjoined, stayed, as of 6/2/00 (*Lubahn v. Saenz*)

620-14C Volunteers who could be paid for services must sign a Certification form (ACL 00-28)

825-3B Age eligibility for CAPI is 65; how to establish age (49-025.1)

825-3C Disability and blindness determined under SSI rules for CAPI purposes; DAPD makes eligibility determinations unless person has been determined eligible for SSI, Title II Social Security, or Medi-Cal (49-025.2, .3)

825-3 D Time limited CAPI, from 10/1/99-9/30/00, for persons entering the U.S. after August 21, 1996; 5-year sponsors' deeming rule (W&IC 18938(a)(3), 18940(b))

825-4 A CAPI payment levels for individuals and couples (49-050.1)

825-4B Independent living arrangement definition; living arrangement determined as of first of month (49-050.2)

825-6A CAPI to be administered under 10-001, 21-101, and departmental instructions (49-013.2)

825-6 B Counties must administer CAPI under federal rules (POMS) and regulations, and CDSS and SSA policies (49-013.11)

825-7 A Transfer of property continues to be property; receipt of income become property the first of the following month (49-040.82, .83)

825-7B Partial listing of excluded resources includes federally excluded benefits, home, household goods and personal effects with equity value under \$2,000, certain automobiles, retroactive Title II, SSI/SSP, and CAPI payments for 6 months (49-040.3)

825-7 C Resources of a spouse, living in the household, considered available (49-040.4)

825-7D Deeming rules from sponsor to CAPI noncitizen (49-040.7)

825-8 B Income must be lower than payment standard in order to be eligible for CAPI (49-035.1, Handbook 49-035.2)

825-8C Earned income defined; exclusions (49-035.3, .4)

825-8D Unearned income defined; ISM defined; PMV defined (49-035.5, 49-005(p)(1))

825-8E \$20 unearned income deduction (49-035.53(m))

825-8F ISM from within and without the household; literal language quoted (49-035.522(b), (c))

825-8G Allowance for ineligible children in deeming situations (ACIN I-86-99)

825-8H Sponsor's allocation in alien deeming situations (ACIN I-86-99)

825-11 ICT procedures (ACL 99-87)

*California Department of Social Services - State Hearings Division
Notes from the Training Bureau - June 12, 2000*

Item 00-06-01H

CDHS ACWDL 00-24 -- April 13, 2000 (Synopsis): Access for Infants and Mothers (AIM) Applications

Access for Infants and Mothers (AIM) Applications

The AIM program is administered by the Managed Risk Medical Insurance Board. It provides comprehensive health care to uninsured moderate income (200 to 300 percent of