
1315-4 Education as a vocational factor (POMS DI 25015.010A.)

1316-4 Skills as a vocational factor (POMS DI 25015.015A.)

1316-5 Determining skill level of PRW (POMS DI 25015.015B.)

1316-6 Training as a vocational factor (POMS DI 25015.015A.)

1317-4 Work experience as a vocational factor (POMS DI 25015.015A.)

1323-3 Effect of deletion of Listing 9.09 on ongoing claims (SSR 00-3p; POMS DI 24570.001B.)

1339-9A How obesity is evaluated (SSR 00-3p; POMS DI 24570.001)

1339-9B Obesity Listing 9.09, deleted 10/25/99, cannot be used to decide claims pending on that date (SSR 00-3p; POMS DI 24570.001B.(10))

1339-9C Evaluation of whether or not the individual is following prescribed treatment, particularly regarding obesity (SSR 00-03p; POMS DI 24570.001B.)

1339-9D Effect of deletion of Listing 9.09 on ongoing claims (SSR 00-3p; POMS DI 24570.001B.)

1340-1 10.00 Multiple Body Systems

1340-2 10.01 Category Impairments/Multiple Body Systems

1340-3 10.06 Down syndrome

1342-16 Sedentary individual with mental limitations or restrictions (SSR 96-9p; POMS DI 25015.020B.)

1342-17 Lay evidence may be used in SSI determinations to establish medical equivalence under Listing 12.04B. (*Schneider v. Commissioner*)

California Department of Social Services - State Hearings Division
Notes from the Training Bureau - November 15, 2000

Item 00-11-01A

Vehicles and Other Personal Property in CalWORKs and Food Stamps
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Vehicles and Other Personal Property in CalWORKs and Food Stamps

With the implementation of welfare reform, there has been an increase in county actions denying or discontinuing CalWORKs and food stamps due to the claimant's ownership of

a vehicle that exceeds the property limit for CalWORKs and the resource limit for food stamps. There has also been confusion about how to interpret the CalWORKs and food stamp regulations regarding vehicles.

This *Notes* sets out questions and answers about vehicles. These issues concern ownership, availability, valuation, exemptions/exclusions or transfers. The questions and answers below deal primarily with ownership and valuation with some discussion of availability.

While the questions and answers below deal primarily with vehicles, the questions and answers concerning ownership also apply to other **personal** property. Real property rules for CalWORKs are found at MPP §42-213.3 through §42-213.5 and §42-215.1 through §42-215.2.

In the future, the CDSS will issue an All-County Letter which addresses ownership of property in CalWORKs and food stamps.

[Note: "He" and "she" and "his" and "her" are used alternatively.]

Q1. What regulations govern the determination of ownership of a vehicle in CalWORKs?

A1. Sections 42-203.3, 42-211.2, 42-213.2 and 63-501.2.

If the issue involves joint ownership of a vehicle (or other property), §42-211.2 and §42-213.2 state that the county shall use §§63-501.1 and 2 in evaluating property to be included or excluded.

Section 42-205.2, which is called "Title Shared with Others", also addresses joint ownership. Since CalWORKs requires that ownership of personal property be determined using food stamp rules, this section now applies only to joint ownership of real property.

If the issue involves ownership (but not joint ownership) of property, §42-203.3 applies because there is no food stamp regulation that deals with "ownership" other than joint ownership. Section 42-203.3 states: "The owner of property is the person who has the legal title to, the right to or has possession of the property. Unless there is evidence to prove otherwise, it is presumed for purposes of determining eligibility that the person who 'owns' the property has the right to possess, use, control, and dispose of the property". However this regulation is simply a succinct statement of the state law of ownership. (See Civil Code §§654 and 679.)

Section 42-203.3 is interpreted to mean that if any person has legal title to property, that person is presumed to be the legal owner of the property. If no person has legal title to property, (e.g., a ring, furniture or other personal property where the owner ordinarily has no document which shows title), then the person who has the right to or has possession of the property is presumed to be the legal owner. The presumption of ownership in all cases

may be overcome by looking at the totality of circumstances, including the right to possess, use, control, and most importantly, dispose of the property.

Section 42-203.3 is in effect as of July 1, 1998, despite changes to CalWORKs regulations due to the implementation of welfare reform. Thus if a claimant alleges that he is not the owner of a vehicle even though he is the sole listed owner, §42-203.3 applies for CalWORKs purposes.

Q2. What regulations govern how ownership of a vehicle is determined in Food Stamps?

A2. There are no food stamp regulations which specifically address the determination of ownership of vehicles or any other property, so state law is used to make that determination. Under state law, ownership is the right to possess and use property to the exclusion of others. (Civil Code §654) A person who owns property has absolute dominion or control over it, and may use it or dispose of it according to his pleasure. (Civil Code §679)

If the issue involves joint ownership, §63-501.2 applies. This regulation applies to real property and personal property in food stamps, including vehicles. That section states:

"Resources owned jointly by separate households (including non-food stamp households) shall be considered available in their entirety to each household, unless it can be demonstrated by the applicant household that such resources are inaccessible to that household. If the household can demonstrate that it has access to only a portion of the resource, the value of that portion of the resource shall be counted toward the household's resource level. The resource shall be considered totally inaccessible to the household if the resource cannot be practically subdivided and the household's access to the value of the resource is dependent on the agreement of the joint owner who refuses to comply. A resource cannot be practically subdivided if the financial value of the proportionate share would be significantly reduced by sale of only the subdivision. Resources owned jointly by household members and persons in the household who are disqualified or ineligible aliens (who would otherwise be household members) shall be considered available to the household, as required by Section 63-503.44."

Q3. If I determine that the claimant is not the owner of the vehicle despite having sole title, and that the AU is thus eligible for CalWORKs under §42-203.3, do I still need to evaluate food stamp resource eligibility for the household under state law?

A3. Yes. CalWORKs uses §42-203.3 to determine ownership. Food stamp rules use state law. They are essentially the same rule, as noted above, so the same outcome will occur in almost all, if not all, cases.

If the CalWORKs AU is categorically eligible (CE) for food stamps, (see §63-301.7) there is no need to further evaluate the CE household, for resource eligibility if the vehicle is the only resource. The household is eligible for food stamps without

verification of resources. If not all household members are categorically eligible, an analysis under state law would be required.

Q4. If I determine that the AU is ineligible for CalWORKs based on §42-203.3, do I need to evaluate the claimant for food stamp resource eligibility under state law?

A4. Yes. A claimant is not ineligible for food stamps based upon CalWORKs regulations. Thus even though the claimant may be ineligible for CalWORKs under §42-203.3, the claimant needs to be evaluated for food stamp eligibility. However, as noted in A3, the applicable law is essentially the same so the determination of eligibility or ineligibility would in almost all, if not all, cases be the same regardless of whether the claimant is evaluated under §42-203.3 or under state law.

Q5. The county denies the claimant's CalWORKs and food stamp application because the claimant is the sole owner of a vehicle in excess of the property/resource limit. It is not disputed that the value of the vehicle exceeds the CalWORKs and food stamp limits. If a claimant contends his father is the owner of the vehicle, what evidence must the claimant provide to establish he is not the owner?

A5. The determination whether the claimant is the "owner" of the vehicle is a fact based determination. If there are facts sufficient to rebut the presumption that the claimant is the owner of the vehicle, a judge may determine that the presumption is rebutted.

Per §42-203.3 and state law regarding ownership, if the claimant is the registered owner of the vehicle, it is presumed he is the owner. The claimant would be required to present evidence to rebut that presumption. The right to dispose of the vehicle is often the key to determining ownership.

The strongest evidence to rebut the presumption of ownership would be evidence created contemporaneously with the acquisition of the vehicle.

Such evidence could include verification that the father made the downpayment, makes monthly payments or pays the insurance on the vehicle. Other factors could include evidence of the father's poor credit history or inability to drive. The claimant and his father could present evidence of an oral or written agreement that the claimant could drive the car but that the father was the owner.

It would not be necessary for there to be a written agreement. For example, if there were an oral agreement that the claimant would be allowed to possess and drive the vehicle (but not sell it) if he would drive his father when the father needed a ride, that oral agreement together with corroborating evidence would be sufficient. Testimony without corroboration should be viewed with distrust if the claimant and his father are able, but fail or refuse, to produce stronger and more satisfactory evidence such as evidence of payments. (Evidence Code §412)

The same analysis would apply in food stamps under applicable state law.

Q6. If the claimant proves that her father paid for the vehicle and pays the insurance, are those facts alone sufficient to prove that the claimant is not the owner of the vehicle

A6. No.

The fact that the father paid for the vehicle and pays the insurance does not establish that the claimant is not the owner of the vehicle. Absent any other facts, the father has made a gift to the claimant (see Civil Code §1146).

To establish that the father is the owner of the car, the claimant would have to present evidence of the father's lack of donative intent, through testimony, declaration or documents. If the claimant presented evidence that the father actually retained control over the vehicle such as by driving it or listing it for sale, this would be additional evidence of his dominion over the vehicle.

Q7. The claimant is a joint owner of a vehicle with a value in excess of the applicable property/resource limit. The vehicle is owned in the name of the claimant **AND** his mother. Is the claimant ineligible for CalWORKs or food stamps if his mother is not in his CalWORKs AU or his food stamp household and refuses to sell the vehicle?

A7: No. If the vehicle is registered in the name of the claimant **AND** his mother, it requires both signatures to sell the vehicle. The DMV registration procedures manual § 5.005 interpreting California Vehicle Code §2150.5(d) clarifies that if there are joint owners of a vehicle and the vehicle is registered to co-owners joined by **AND**, the signature of both owners is needed to transfer the vehicle. The signatures of both owners are also needed if the vehicle is registered as claimant/mother (i.e., / is the same as and).

Since the mother refuses to sell the vehicle, the claimant cannot sell the vehicle. Since the vehicle cannot practically be subdivided, it is considered totally inaccessible for either CalWORKs or food stamps under §63-501.2.

Q8. The claimant is a joint owner of the vehicle with a value in excess of the applicable property/resource limit. The vehicle is owned in the name of the claimant **OR** her mother. Is the claimant eligible for CalWORKs or food stamps if her mother is not in the CalWORKs AU or the food stamp household and refuses to sell the vehicle?

A8. It depends. If the vehicle is registered in the name of the claimant **OR** her mother, per DMV registration procedures manual §5.005, it only requires the signature of one co-owner to sell the vehicle. The claimant could thus sell the vehicle without her mother's approval.

However, as stated earlier, the claimant could rebut the presumption that she is an owner of the vehicle by presenting proof that she is not the co-owner of the vehicle.

Q9. For both CalWORKs and Food Stamps, are vehicles considered inaccessible resources if they are encumbered beyond their fair market value, so that the sale of the vehicle would probably not produce any net benefit to the claimant?

A9. No. The U.S. Circuit Court of Appeals, 9th Circuit, held that vehicles which are not excluded as resources, and whose fair market (or gross) value exceeds the maximum allowable (then \$4500, now \$4650), are not considered inaccessible resources, even when the encumbrances on the vehicle exceed the gross value of the vehicle. Thus plaintiff, whose car had a gross value of \$6625, and a lien of \$8300, was ineligible for FS benefits because the countable value of the vehicle was \$2125. This exceeded the \$2000 resource limit. (see *Alexander v. Glickman* (1998) 139 F.3d 733)

Q10. Section §63-501.2 refers to three different means for evaluating jointly owned resources: 1) where resources are considered available in their entirety to each household; 2) where only that portion of a resource is counted toward the household's resource level; and 3) where the resource is considered totally inaccessible. Can you provide an example of each circumstance?

A10. 1a) The adult claimant and his mother are joint owners of a vehicle. They live in the same home but only the claimant receives food stamps. Both the claimant and his mother drive the vehicle. Both are willing to sell the vehicle. There are no restrictions on the use of the vehicle except when one is driving, the other does not have immediate access. The claimant and his mother also are unable or unwilling to provide any evidence to show their respective contributions to the purchase price or payments, nor do they have any arrangement regarding disposition of proceeds from sale of the vehicle.

This vehicle is available in its entirety to both the claimant and his mother, whether the title is held as "AND" or "OR".

1b) The claimant and her mother jointly own a checking account. They co-mingle funds. Both write checks on the account. They have no records to establish who deposited or who withdrew any funds.

The value of the account is available in its entirety to both the claimant and her mother.

2a) The adult claimant and his mother are joint owners of a vehicle. They live in the same home but only the claimant receives food stamps. The mother made the downpayment on the vehicle. Both the claimant and his mother make equal monthly payments on the vehicle and for vehicle insurance. When the car was purchased, it was agreed that when it came time to sell the vehicle, the mother would get 60% of the proceeds and the claimant would get 40% because she made the downpayment.

The value of the claimant's interest in the vehicle is 40% of the total value.

2b) The claimant and her mother jointly own a non-interest-bearing checking account. The account was opened on January 4, 2000. They keep records of deposits and

withdrawals each makes from the account. Both write checks on the account. The account currently has \$6000.

The claimant deposited \$3000 into the account on January 4, 2000. She has made an additional \$1000 deposit on June 5, 2000. She has written \$2400 in checks and made \$600 in withdrawals.

Her total value in the account is $\$3000 + \$1000 - \$2400 - \$600 = \$1000$.

Her mother deposited \$5000 on January 4, 2000. She made an additional \$5000 deposit on June 5, 2000. The claimant's mother wrote checks totaling \$4000 and made withdrawals totaling \$1000.

The mother's value in the account is $\$5000 + \$5000 - \$4000 - \$1000 = \$5000$.

3. The claimant and his brother are registered owners of a vehicle. The brother is not applying for aid. The vehicle is registered as claimant/brother. The brother refuses to sell the vehicle.

Since the car cannot be practically subdivided, the car is considered totally inaccessible to the claimant.

Q11. Section 63-501.513 says that if a household claims that the blue book value does not apply to its vehicle, it shall be given an opportunity to acquire verification of the true value from a reliable source. What is a reliable source?

A11. A reliable source is a person qualified by education or experience to make a reasonable, arms-length market appraisal. This would include an auto dealer, a used car dealer, or an auto repair shop.

Q12. May a household simply obtain a business card from an auto dealer or used car dealer with a dollar number on the back of the card indicating the value the dealer places on the car?

A12. If a claimant simply submits a business card with a dollar number on the back of it, such evidence may be given very little weight. A price quoted on the back of a card might be just an offer to purchase the vehicle at a price substantially lower than the "true value" of the vehicle. The actual value of the vehicle may be substantially higher.

Better evidence might be a written statement from the source: 1) identifying the "reliable source" by name and job description; 2) identifying the claimant's vehicle; 3) estimating the value of the vehicle; and 4) explaining why the value is less than the blue book value. Such statement could be in the form of a repair estimate from a repair shop or an itemized statement from an auto dealer or repair shop as to the defects or body damage to the vehicle. The statement could specify how much is deducted for each defect.

For example, if the blue book value for a car with above average mileage and minor body damage is \$10,000, the claimant may present a statement from a John Smith, owner of Honest John's repair shop estimating that the value of Max Claimant's 1995 Honda Accord is valued at \$5500 because it needs \$3000 in repairs for body damage to the front left side of the car and an additional \$1500 in engine work. (i.e., \$10,000-\$3000-\$1500=\$5500.)

Q13. The claimant contends that a car is in less than average condition, but she cannot afford to get an estimate because auto dealers or repair shops will charge her \$25 for verification of the value of the vehicle. Is the county responsible to pay for an estimate?

A13. Perhaps. If a claimant is unable to afford to pay for verification of the value of a vehicle from a reliable source, the claimant may choose to bring in newspaper classified ads for a comparable vehicle with comparable mileage and in comparable condition. If that or other evidence is not available or sufficient, however, the county may be obligated under W&I Code §11275.10(a) and MPP §40-126.332 to assist the claimant to obtain that third party information and to pay any fees charged by the third party for that information.

Q14. In pertinent part, §63-501.53 states that unlicensed vehicles shall be evaluated for equity value only. What is an unlicensed vehicle?

A14. An unlicensed vehicle is one where the owner has not paid the most recent annual license fee.

*California Department of Social Services - State Hearings Division
Notes from the Training Bureau - September 14, 2000*

Item 00-09-01L

CDSS ACIN I-81-00 -- August 15, 2000 (Synopsis): Earnings and Social Security Quarters of Coverage

Earnings and Social Security Quarters of Coverage

Reference: MPP §63-405.43

In 2000, the amount of earnings needed to earn one quarter of coverage (credit) is \$780. A noncitizen who does not meet other criteria for food stamp eligibility needs to have 40 credits in order to establish food stamp eligibility. Attached is a quarter of coverage chart that provides the amount of earnings needed per quarter in each year since 1975 to earn one credit. (see also paraphrased regulations 232-4 through 232-4D)

*California Department of Social Services - State Hearings Division
Notes from the Training Bureau - September 14, 2000*

Item 00-09-01K