
Domenika v. Saenz Court Order

Where a minor parent resides with his/her senior parent, child support payments made to a senior parent on behalf of the minor parent and intended to provide for the needs of the minor parent shall not be considered in determining CalWORKs eligibility and grant amount for the minor parent's child. Prior to *Domenika*, CDSS considered such child support payment as income to the minor parent.

This change became effective February 1, 2001. MPP §89-201.514 has not been modified to reflect this change.

*California Department of Social Services - State Hearings Division
Notes from the Training Bureau - April 27, 2001*

Item 01-04-02A

Updated Paraphrased Regulations

This is the April 2001 update of the Paraphrased Regulations (ParaRegs). The last update was February 2001. The last new hardcopy of the ParaRegs was distributed in December 2000 to all ALJs and to two counties (Kern and San Mateo) and two authorized representative groups (Legal Services of Northern California [the Sacramento office] and Western Center on Law and Poverty [the Los Angeles office]). 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 June, and October 2001.

Beginning with the February 2001 issue, the hardcopy is updated in the manner of a manual, i.e., as Barclay's does in Title 22. Instructions for manual filing follow:

Replace:	With:	Replace:	With:
7-10	7-10	39-40	39-40
49-52	49-52.1	57-58.1	57-58.2
63-66	63-66	69-70	69-70
109-110	109-110.3	133-134	133-134
159-160	159-160.1	181-184	181-184
191-192.2	191-192.3	199-200.2	199-200.3
229-232	229.232	239-240	239-240

249-250	249-250	278.1-278.2	248.1-278.2
303-308	303-308	313-314	313-314.1
318.3-322 329-330	318.3-322	329-330	
337-340	337-340	342.1	342.1
345-348.4	345-348.5	353-356.2	353-356.2
359-362.1	359-362.1	373-374	373-374
377-378	377-378	385-390	385-390
393-402	393-402	405-408	405-408
413-416	413-416	421-242	421-424
435-436	435-436	438.3	438.3-438.5
447-454	447-454.5	461-462	461-462
469-472	469-472	477-480	477-480
491-492	491-492.1	503-506	503-506.2
509-522.5	509-522.5	527-528	527-528
533-534	533-534	535-536	535-536
547-548	547-548	553-554	553-554.1
563-572	563-572		

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.

Additionally, while the ParaRegs are as current as possible, there may be recent changes which have not been incorporated because the material was received too late to be included. In this regard, it should be noted that, e.g., Kin-GAP, AAP, and Managed Care Two-Plan Model ParaRegs may not reflect the most current regulatory changes.

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 or very specific 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

New Issue Codes

065 – KinGAP

066 – KinGAP: AU

067 – KinGAP: Cooperation / Participation

068 – KinGAP: Income / Property / Aid payments

425 – Residents in institutions

566 – Service Evaluations

Issue Code Changes

445 – Disability and Blind linkage

Deletions

242-1A

564-4

ParaRegs Renumbered

242-1=241-7

242-1B=241-7A

242-1C=241-7B

242-1D=241-8

242-1E=241-9

242-1F=241-10

531-1B=531-1C

Revised

009-6

CDSS agrees to rescind parts of Notes from the Training Bureau dealing with authority of ALJs to write final decisions when they adhere to policy regarding hardship set forth in Notes (*Rush v. Saenz*)

070-6

Kin-GAP child must have lived with relative for 12 consecutive months, guardianship must be established, and juvenile court dependency dismissed after 1/1/2000 (W&IC 366.26, 366.3; ACL 99-97, 00-09; 90-015.121, .131, .132)

070-7

Kin-GAP recipient is in own AU, and income and aid payment is not available to others; caretaker relative may be in separate AU (W&IC 11450(j), 11371, 11450.16(B); ACL 99-92, 99-97; 90-105.31, 82-820.22)

070-8

Kin-GAP children must be current on immunizations, and meet school attendance requirements if at least 16 years old; prior to 7/10/01, they were also required to have a monthly reporting form filled out, and participate in the Cal-Learn program if pregnant or if they have their own child(ren) (ACL 00-09, 00-70; 90-110.31, 90-110.1(i))

075-1B

Nonresponsible caretaker relatives in home with their children are in separate AU from children for whom they have no legal responsibility, superceded by Supreme Court decision (*Beaton v. Thompson, Anderson v. Edwards*)

075-1C

Eligible siblings and nonsiblings not required to be in same AU, superceded by Supreme Court decision (*Edwards v. Healy*, *Anderson v. Edwards*; ACL 92-49, 92-64; 44-205.31, 82-824.13)

078-2

Kin-GAP recipient is in own AU, and income and aid payment is not available to others; caretaker relative may be in separate AU (W&IC 11450(j), 11371, 11450.16(B); ACL 99-92, 99-97; 90-105.31, 82-820.22)

138-12

Kin-GAP recipient is in own AU, and income and aid payment is not available to others; caretaker relative may be in separate AU (W&IC 11450(j), 11371, 11450.16(B); ACL 99-92, 99-97; 90-105.31, 82-820.22)

173-1A

Pregnancy need to be paid to eligible pregnant women effective the month of verification of pregnancy (ACL 00-45; W&IC 11450(c))

209-7

CDSS agrees to rescind parts of Notes from the Training Bureau dealing with authority of ALJs to write final decisions when they adhere to policy regarding hardship set forth in Notes (*Rush v. Saenz*)

260-3

Net income of all other HHs other than elderly or disabled (63-503.311; Handbook 63-1101.2; ACL 98-78, 00-63)

410-2C

Application defined; county duty to complete SAWS I when applicant calls in to apply for Medi-Cal (50022; ACWDL 00-31)

414-13

Application defined; county duty to complete SAWS I when applicant calls in to apply for Medi-Cal (50022; ACWDL 00-31)

417-8

Additional 12 months of TMC after first year for certain 19-year-old and older individuals who continue to meet TMC eligibility requirements (ACWDL 98-56; MEPM 5B-5)

422-4

New conditions of eligibility of aliens for Medi-Cal benefits (W&IC 14007.5) [NOTE: Please select appropriate number(s)]

430-8

FPL insert for use in decisions as of 4/1/00, 4/1/01 (ACWDL 99-15, 00-10, 01-04E)

434-1

TB program eligibility requirements (MEPM, 5N; ACWDL 95-12, 95-39, 95-73, 98-02, 99-62; 01-03)

434-2

TB program net income determinations; income limits, deduction amounts as of 1/1/01 (MEPM, 5N; ACWDL 01-03)

438-1

General provisions governing the A&D FPL program (ACWDL 00-57, 00-68)

444-2

Age requirements for 1931(b) eligibility; child must be deprived and have 0 SOC for parent(s) to be eligible for 1931(b) (ACWDL 98-43; MEPM 5S-3, 4, 8G-2)

444-4A

Persons ineligible for CalWORKs (e.g., fleeing felons, work sanctioned, aliens without SIS) may still be 1931(b) eligible (MEPM 8G-2, 5S-4)

444-4B

Pregnant women in last trimester, without other children, may be 1931(b) eligible, not father of the unborn is not; if other deprived children are 1931(b) eligible unborn may be used to increase family size from date pregnancy is established (MEPM 5S-3, 8G-2)

447-1

Persons entitled to zero SOC based discontinuance from SSI/SSP due to OASDI income (Pickle Handbook; 50564; *Lynch v. Rank*)

447-8

SSI payment levels to determine if Pickle eligibility exists (ACWDL 99-66, 01-04)

447-10

How to determine ISM from VTR or PMV (Pickle Handbook, 14)

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)

483-2A

Requirement to give applicant information about spenddown following Principe, whether or not there appears to be excess property (ACWDL 97-41)

483-4

Unavailable property not considered in determining eligibility (50402, ACWDL 90-01)

486-2

Exclusion of certain business property (50485, ACWDL 91-28)

487-1

Transfers of property more than two years prior to initial application presumed nondisqualifying; applies only to certain institutionalized persons (50408, 50409; 42 USC 1396p(c), W&IC 14002, 14006; ACWDL 90-01)

487-2

Transfer of exempt property does not result in ineligibility; applies only to certain institutionalized persons (42 USC 1396p(c), W&IC 14002, 14006; 50408(a); ACWDL 90-01)

487-3

No disqualifying transfer if adequate consideration received; definition of adequate consideration; applies only to certain institutionalized persons (42 USC 1396p(c), W&IC 14002, 14006, 50408(a)(3), (a)(6); ACWDL 90-01)

487-4

Transfer of property not disqualifying when adequate consideration is received, or when no intent to establish eligibility or reduce SOC; applies only to certain institutionalized persons (42 USC 1396p(c), W&IC 14002, 14006, 50409(b); *Beltran v. Myers*; ACWDL 90-01)

487-5

Period of ineligibility after transfer of property to qualify for aid; how computed applies only to certain individuals (50411; ACWDL 90-01; 42 USC 1396p(c))

492-2

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)

492-2A

Requirement to give applicant information about spenddown following *Principe*, whether or not there appears to be excess property (ACWDL 97-41)

492-3A

Modifications to utilization requirements (ACWDL 91-28, 90-01; 50416)

492-7

Unavailable property not considered in determining eligibility (50402, ACWDL 90-01)

495-2

Exclusion of certain business property (50485, ACWDL 91-28)

496-1

Transfers of property more than two years prior to initial application presumed nondisqualifying; applies only to certain institutionalized persons (50408, 50409; 42 USC 1396p(c), W&IC 14002, 14006; ACWDL 90-01)

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496-5

Period of ineligibility after transfer of property to qualify for aid; how computed applies only to certain individuals (50411; ACWDL 90-01; 42 USC 1396p(c))

511-1A

When potential overpayment occurs; no potential overpayment if beneficiary/representative reports within competence, or fails to perform an act which is a condition of eligibility due to CDHS or county error (50781)

531-1A

Rule on balance of removable partial denture (Denti-Cal Provider Manual 4-28; Denti-Cal Bulletin, Vol. 8, No. 9 (7/92))

531-1C

When prosthetic appliance can be authorized more than once in five-year period (Denti-Cal Provider Manual 4-27, 28)

531-6

Denti-Cal criteria for periodontal services (Denti-Cal Provider Manual 4-21)

533-3

Nonemergency medical transportation requires description of medical reason necessary, by professional (Manual of Criteria 12.1.2)

533-4

Examples of when a wheelchair van may be authorizable (Manual of Criteria 12.1.4.)

533-5

Contraindication examples to the use of private or public transportation (Manual of Criteria 12.1.4 - 12.1.5)

537-2

Criteria for acute care psychiatric services (Manual of Criteria 5.2.1)

561-2

PCSP only for those who would be unable to remain safely at "home"; "home" defined (51350(b), 51145.1)

561-6A

State law and regulations do not permit person eligible for personal care services under PCSP to receive IHSS for those services (30-757.1; W&IC 12300(f), 14132.95; ACL 99-25)

563-1

PCSP includes personal care and ancillary services; services covered by PCSP (51183; MPP Handbook 30-780.1)

603-2A

State law and regulations do not permit person eligible for personal care services under PCSP to receive IHSS for those services (30-757.1; W&IC 12300(f), 14132.95; ACL 99-25)

815-1

Amount allowed for assistance dog special circumstances payment (46-430.4, revised from 46-430.1(s))

921-2

"Reassessment", formerly "Recertification" process, (42 USC 673(a)(3); W&IC 16120.05)

922-4

Medical information on child and child's biological parents must be provided to prospective adoptive parents prior to or at time of placement (22 CCR 35195(a), formerly 35209(a); Family Code 8706)

926-2A

Guidelines to be used in determining AAP grant obsolete eff. 12/1/99; deferred payment agreement should be signed even if no cash payment authorized (W&IC 16119(d); 22 CCR 35333(a)(3)(D); ACL 98-03, 99-101; *Mark A. v. Davis*)

926-4

Maximum AAP payment if the child is living in the adoptive family's home and is not a Regional Center client (22 CCR 35333(b)(1)(A))

926-6

Maximum AAP rate for Regional Center clients (22 CCR 35333(c)(1), formerly 35333(b)(1)(A)4.)

1000-3

Establishing UTMA; irrevocability; vesting in minor (Prob. C. 3909(a)(2), 3911(b))

1100-10

Hearsay exception: statement made by party or party's representative (Ev. C. 1220)

1101-1

Party asserting affirmative of issue has burden of proof (*Cornell v. Reilly*)

1304-2

ALJ must give clear reasons for rejecting pain testimony (*Varney v. Secretary*)

1304-3

ALJ cannot reject treating physician's opinions unless there are clear and convincing reasons to do so (*Montijo v. Secretary of HHS*)

1304-6

ALJ erred in determining claimant could do past work when the ALJ failed to find claimant's impairment did not meet or equal a listing (*Fanning v. Bowen*)

1304-7

ALJ should rely on treating physician, not consultant (*Sprague v. Bowen, Murray v. Heckler*)

1304-9

Duties of adjudicator when evaluating pain and other symptoms (POMS DI 24515.066B; SSR 96-7p)

1304-11

Pain testimony, when it can be rejected (*Stewart v. Sullivan, Fair v. Bowen*)

1308-5

Nonexertional and exertional limitations compared (20 CFR 416.969)

1313-2

ALJ erred in determining claimant could do past work when the ALJ failed to find claimant's impairment did not meet or equal a listing (*Fanning v. Bowen*)

1313-3

Disability for unskilled workers who performed arduous work for 35 years (20 CFR 416.962; POMS DI 25010.001B.(1))

1318-5

Nonexertional and exertional limitations compared (20 CFR 416.969)

1318-6

Alternate sitting and standing (POMS-DI 25020.005)

1318-7

Alternate sitting and standing puts case outside the Grids (*Gallant v. Heckler*)

1318-8

Person unable to walk, stand or sit for one hour without pain cannot do most jobs in national economy (*Gallant v. Heckler*, *Delgado v. Heckler*)

1318-9

Claimant who cannot return to past work and who has significant nonexertional limitations requires VE to deny claim (*Burkhart v. Bowen*)

1318-10

Side effects of medication (*Varney v. Secretary*)

1319-1

ALJ must give clear reasons for rejecting pain testimony (*Varney v. Secretary*)

1319-4

Duties of adjudicator when evaluating pain and other symptoms (POMS DI 24515.066B; SSR 96-7p)

1319-7

Pain is highly idiosyncratic (*Howard v. Heckler*)

1319-8

Pain testimony, when it can be rejected (*Stewart v. Sullivan*, *Fair v. Bowen*)

1320-1

Medical opinions and opinions from other sources (POMS DI 24515.002A.)

1320-2

Weight to be given to treating source's opinion (POMS DI 24515.003A.)

1320-3

State agency medical opinions may sometimes be given more weight than that of treating physicians (20 CFR 416.927(f); SSR 96-6p; POMS DI 24515.003, 24515.013B.)

1320-4

ALJ cannot reject treating physician's opinions unless there are clear and convincing reasons to do so (*Montijo v. Secretary of HHS*)

1320-5

ALJ should rely on treating physician, not consultant (*Sprague v. Bowen*, *Murray v. Heckler*)

1321-2

Claimant who cannot return to past work and who has significant nonexertional limitations requires VE to deny claim (*Burkhart v. Bowen*)

new

036-4B

Generally, child care payments are made directly to provider, except they may be made directly to client if care is provided in client's home (47-420.1, .2)

065-1

Kin-GAP is for children with court dependencies living with relatives who are the child's guardian; ACLs serve as temporary regulations (SB 1901; AB 1111; ACL 99-92, 99-97)

065-2

Kin-GAP recipient is in own AU, and income and aid payment is not available to others; caretaker relative may be in separate AU (W&IC 11450(j), 11371, 11450.16(B); ACL 99-92, 99-97; 90-105.31, 82-820.22)

065-3

Kin-GAP child must have lived with relative for 12 consecutive months, guardianship must be established, and juvenile court dependency dismissed after 1/1/2000 (W&IC 366.26, 366.3; ACL 99-97, 00-09; 90-015.121, .131, .132)

067-1

Kin-GAP children must be current on immunizations, and meet school attendance requirements if at least 16 years old; prior to 7/10/01, they were also required to have a monthly reporting form filled out, and participate in the Cal-Learn program if pregnant or if they have their own child(ren) (ACL 00-09, 00-70; 90-110.31, 90-110.1(i))

068-1

Kin-GAP recipient is in own AU, and income and aid payment is not available to others; caretaker relative may be in separate AU (W&IC 11450(j), 11371, 11450.16(B); ACL 99-92, 99-97; 90-105.31, 82-820.22)

073-12A

Certain payments made to or on behalf of MFG child for child support are exempt from consideration as income (ACL 01-16; *Kehrer v. Saenz*)

077-2A

Child support paid to senior parent on behalf of minor parent's not minor parent income in excluded parent computation set forth in 89-201.514 (ACL 01-15; *Dominika S. v. Saenz*)

109-6

One can combine unsubsidized employment with a job and/or with community service activities to meet WTW participation requirements (42-710.3)

109-6A

Single parents must participate for 32 hours per week, and parents in a two parent AU must participate for 35 hours (42-711.4)

109-6B

After 18- or 24-month period has expired, CalWORKs recipient must participate in community service, but county must set forth activities in plan (ACL 99-111)

109-6C

Activities, in addition to basic community service, which may be considered parts of the assignment (ACL 99-111)

109-6D

County community service plan must not routinely require participation in WTW activities (ACL 99-111)

109-6E

Individuals may develop a self-initiated community service plan, but plan may be rejected if inconsistent with the individual's WTW plan, or if it does not conform to statutes, regulations, or policies governing community service (ACL 99-111)

109-6F

Child care services must be provided to community service participants, and if other services necessary to participation are not provided, a recipient will have good cause for nonparticipation (ACL 99-111; 42-750)

109-6G

Individuals who have reached 18- or 24- month limit may still be sanctioned for nonparticipation in community service, but they may establish good cause (ACL 99-111; 42-711.94, 42-721.2 and .4)

109-7

Definitions of "no job is currently available" (42-710.5)

138-14

Certain payments made to or on behalf of MFG child for child support are exempt from consideration as income (ACL 01-16; *Kehrer v. Saenz*)

138-15

Child support paid to senior parent on behalf of minor parent's not minor parent income in excluded parent computation set forth in 89-201.514 (ACL 01-15; *Dominika S. v. Saenz*)

184-1

Definitions of specialized care, specialized care increments, and specialized care rates (ACIN I-113-00)

184-2

Counties must submit a specialized care program proposal to CDSS for approval (ACIN I-113-00)

248-3

Persons in violation of their probation or parole defined (63-102p.(2))

248-5

Drug felons defined and excluded from HH (63-402.229)

248-5A

Drug felons only excluded from HH if conduct and conviction both occurred after 8/22/96 (ACL 98-16; 63-402.229)

404-5

NOA requirements when a CalWORKs discontinuance occurs 7/1/01 and following (ACWDL 01-17; SB 87)

414-13A

Protecting the date of application in mail-in or walk-in situations; county duty to assist; when applicant need not sign application for Medi-Cal, but must still sign for CalWORKs and FS (ACWDL 01-06)

414-13B

Information which must be included when an application is mailed to, or handed to, an applicant (ACWDL 01-06)

417-11

CEC program protects zero SOC children under 19 from discontinuance or an SOC until the next redetermination, or until they turn 19, whichever is earlier (ACWDL 01-01; AB 2900)

422-4A

Certain aliens, otherwise ineligible for Medi-Cal, may be entitled to medically necessary pregnancy-related services, as of 7/22/99 (W&IC 14007.7)

425-1

Persons in public institutions are ineligible for Medi-Cal; certain persons in jails or prisons, or minors in detention centers or correctional facilities, are specified as ineligible (50273(a)(1) - (a)(8))

425-2

Regulations make IMD residents between 21 and 65 ineligible for Medi-Cal (50273(a)(9))

425-2A

Under state law, persons from 21-64 in IMDs are not eligible for Medi-Cal unless there is FFP (W&IC 14053)

425-2B

State law allows persons 21-64 in MDs to receive ancillary services, even without FFP (W&IC 14053.1)

425-3

Persons ineligible for Medi-Cal due to institutional status (set forth in 50273(a)) are ineligible only while actually in that status (50273(b))

430-4

All FPL programs except QWDI shall disregard Title II COLAs until FPL charts are adjusted 4/1/01 (ACWDL 00-65)

438-2

Count parent's income in determining child's eligibility for A&D FPL program; if parent and child tentatively eligible, they are in separate units (ACWDL 01-18)

444-2A

Example of how a parent can establish 1931(b) eligibility when the only child is eligible for a zero SOC under a percent program, here the 200% program (8G-9)

531-1B

5-year limitation on prosthetic appliance replacement applies only to appliances provided by Denti-Cal (Denti-Cal Provider Manual 4-27)

538-10

Definition of EPSDT screening sources (51184(a))

538-11

Definition of EPSDT diagnosis and treatment services (51184(b))

538-12

Definition of EPSDT supplemental services and examples of measures covered (51184(c), (d), (g), (j))

538-13

Information to be included with EPSDT supplemental service request (51340(d))

538-14

Pediatric day health care ESPDT defined; respite care excluded as a benefit (51184(l); 51340.1(s); W&IC 14132.10(a))

561-1B

CDSS shall notify persons receiving IHSS payment in advance of zero SOC possibility if they accept payment in arrears, if they are otherwise PCSP eligible, and are Pickle persons or eligible under 42 USC 1383c(c) (W&IC 14132.95(k))

561-2B

State law authorizes PCSP for persons living in their homes and other authorized locations (W&IC 14132.95(a)(1))

566-1

PCSP includes personal care and ancillary services; services covered by PCSP (51183; MPP Handbook 30-780.1)

566-2

Specific Medi-Cal explanations for evaluating personal care services (51183(a))

566-3

Specific Medi-Cal explanations for evaluating ancillary services (51183(b))

625-2

CDSS shall notify persons receiving IHSS payment in advance of zero SOC possibility if they accept payment in arrears, if they are otherwise PCSP eligible, and are Pickle persons or eligible under 42 USC 1383c(c) (W&IC 14132.95(k))

815-2

Eligibility for assistance dog payments limited to recipients of SSI/SSP, IHSS, or SSDI (46-430.1(e))

815-3

Eligibility for assistance dog payment begins on first of month of application (46-430.4)

920-1A

Eligibility factors for AAP under state law (W&IC 16120)

921-2A

Recertification process and limited right of counties to decrease AAP benefits at recertification (22 CCR 35333(d)(1) and 35343(b)(3); ACL 98-03)

922-4

Medical information on child and child's biological parents must be provided to prospective adoptive parents prior to or at time of placement (22 CCR 35195(a), formerly 35209(a); Family Code 8706)

922-7

When an NOA is required (22 CCR 35345(a))

922-8

Factors to consider by adoptions worker in assessing child's needs and required level of care (22 CCR 35333(b)(1)(A))

923-1

When an NOA is required (22 CCR 35345(a))

926-4A

How the AAP benefit is determined; required agency negotiations and discussions, and documentation of such (22 CCR 35333(b) - (h))

926-9

AAP benefit does not include respite care, educational sources, capital improvements to homes, purchases or leases of vehicles, health care services, attorney's fee (22 CCR 35333(e)(6)(C))

927-2A

Old rule: Definition of AAP overpayments (Title 22, CCR, 35344(a), effective 11/1/94, obsolete 1/1/00)

1313-7

Medical equivalence must be based on medical evidence only (20 CFR 416.926.(a)-(d))