
Item 03-08-01A**Updated Paraphrased Regulations**

This is the August 2003 update of the Paraphrased Regulations (ParaRegs). This new hardcopy of the ParaRegs appends and does not replace the previous update. It is being distributed 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.

Please insert the pages at the end of your ParaReg section as you would pocket parts.

The ParaRegs do not necessarily set forth CDSS or CDHS policy. For example, if a federal and state regulation are both cited, and they appear inconsistent, or a state regulation appears inconsistent with a state interpretation, the ParaRegs cannot be setting forth CDSS or CDHS policy because one or the other citation is not departmental policy. The ParaRegs are the Quality Improvement Bureau'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. Therefore, the ParaRegs are not all inclusive and should not be relied upon solely when writing decisions. The ParaRegs do not contain policy determinations which may have been communicated orally to the Quality Improvement Bureau, but which have not been put in written form. The ParaRegs do not contain program answers which have been put in written form, but only in relation to answers to questions posed by individual counties, or contained in material not distributed to a general audience.

Additionally, while the ParaRegs are as current as possible, there may be recent changes which have not been incorporated. This could be because the material was received too late to be included or because there is material which was not received by the Quality Improvement Bureau.

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 language in the ACL, ACIN, ACWDL, regulation, or law is unclear.
4. Language in some ACLs, ACWDLs, or emergency regulations are quoted because they appear to be different from, or inconsistent with, the underlying law, federal or other state regulations, or court cases.

This new version of the ParaRegs has several differences from prior editions.

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1. A number of ParaRegs have been deleted because they are no longer relevant.
 2. Other ParaRegs have been deleted from the main version because it is very unlikely that they will be needed in writing a decision. However, they have been retained in a separate file, and saved as obsolete, because it is possible that they may be useful in dealing with, e.g., an old overpayment or underpayment situation. These obsolete ParaRegs will make the current version less bulky. They will be retrievable as described on page 3 of these Notes.
 3. This printed version of the ParaRegs will not be the same as it will look if a ParaReg is inserted in a decision. For example, a court case will have italics when inserted, but it will not have those italics in the hardcopy. Several charts will be difficult to read in the hardcopy. However, all charts will be much clearer when pulled up from the computer.

Finding a Parareg

Please remember that a ParaReg may be found in one of several ways:

1. If you know the Issue Code, e.g., unearned income in CalWORKs, check the Issue Code on either the Index or the ParaRegs to see what is included. Remember that unearned income in, e.g., Medi-Cal or Food Stamps, will be found in a separate Issue Code.
2. If you know the citation, check the cross references.
3. If you wish to use a word search, you can download from the website or use the program Pat Cooney has created to do so. The Custom App no longer supports word searches.
4. If you are looking for a general legal principle, e.g., evidentiary rules, rather than for a ParaReg related to a specific program, check ParaRegs or Index 1000-1299.

Revised

020-10

Special rules regarding responsible county when a child moves from one county to another (40-190.222, formerly 40-187.222)

077-2

Old rule: No income considered available from senior parent to grandchildren (89-201.5, revised 7/1/98, repealed 3/31/03)

077-2A

Child support paid to senior parent on behalf of minor parent is not minor parent income in excluded parent computation set forth in 89-201.514 which regulation was repealed 3/31/03 (ACL 01-15; Dominika S. v. Saenz)

077-3

Old rule: Grant to minor parent's child(ren), when minor parent is in own AU or in senior parent AU, is greater of grant, per 44-315.3 and MAP of child(ren) (89-201.53, revised 7/1/98 and 3/31/03)

085-7A

A car, if not otherwise excluded, with an FMV greater than the \$4500 (now \$4650) limit, was a countable resource, even if the net value of the car was zero after encumbrances; after 6/1/01, a car worth less than \$1500 is excluded from resource consideration (Alexander v. Glickman; 7 CFR 273.8(e); §63-501.525)

109-17

Counties must provide information, if requested, of cumulative countable months on aid, exempt months, and remaining months, for 60-month eligibility purposes (40-107.146)

109-19

Requirements to issue NOA at redetermination of aid, and contents of NOA (40-107.142)

109-19A

Despite regulatory requirements of 40-109.142, CDSS says counties are not required to send mandated NOA in 54th countable month; new regulations clarify county responsibilities (ACIN I-47-02; 40-107.14, eff. 4/9/03)

109-21A

Exceptions to general 60-month time limit for adults (42-302.11, .12)

109-21B

Specific exception to general 60-month time limit for adults based on inability to maintain employment or participate in WTW activities (42-302.114)

109-23

"Exempt" months for purposes of 60-month time limit (42-302.21)

109-23A

Unticking the 60-month clock because of child support recoupment (ACL 02-74; 42-302.21(g))

109-25

Requirement to notify recipients of 60-month time limit (ACL 02-33; 40-107.141-.149)

109-26

Recipient can request an exemption/exception to 60-month time limit (42-302.3)

109-29

Pre-4/9/03 notice requirements when exemption/exception request is approved or denied (42-302.34)

120-1

Special rules regarding responsible county when a child moves from one county to another (40-190.222, formerly 40-187.222)

122-11

Beginning date of aid for new AU member (44-318.1)

135-7A

Old rule: No income considered available from senior parent to grandchildren (89-201.5, revised 7/1/98, repealed 3/31/03)

135-7B

Old rule: Grant to minor parent's child(ren), when minor parent is in own AU or in senior parent AU, is greater of grant, per 44-315.3 and MAP of child(ren) (89-201.53, revised 7/1/98 and 3/31/03)

138-15

Child support paid to senior parent on behalf of minor parent is not minor parent income in excluded parent computation set forth in 89-201.514 which regulation was repealed 3/31/03 (ACL 01-15; Dominika S. v. Saenz)

151-1

Old rule: Determination of overpayment, generally, nonexcess property cases (44-352.12, pre-4/9/03)

152-1

Old Rule: Determination of excess property overpayment (44-352.11 revised 4/9/03))

153-2

Limits on overpayment adjustments (W&IC 11004(c); ACL 97-66; 44-352.41, revised 7/1/98)

156-3

Tax intercepts, when appropriate (20-403.1, .2)

209-4

Equitable estoppel may not be applied against the federal government when it would result in a payment of funds not authorized by Congress, upheld in unpublished Court of appeals decision (OPM v. Richmond; Vang v. Healy; Vang v. Saenz)

209-11

No equitable estoppel against federal government (OPM v. Richmond; Vang v. Saenz)

245-2B

Claim is handled as AE if due to county action or inaction; if CE household only overissuance is due to net income or household size (63-801.221)

256-2B

A car, if not otherwise excluded, with an FMV greater than the \$4500 (now \$4650) limit, was a countable resource, even if the net value of the car was zero after encumbrances; after 6/1/01, a car worth less than \$1500 is excluded from resource consideration (Alexander v. Glickman; 7 CFR 273.8(e); §63-501.525)

273-5A

Reconciliation of state and federal policies on child support deductions (7 CFR 273.9(d); ACIN I-14-02)

292-6

Claim is handled as AE if due to county action or inaction; if CE household only overissuance is due to net income or household size (63-801.221)

295-3

Tax intercepts, when appropriate (20-403.1, .2)

296-9A

Debt Collection Improvement Act requires credit agencies to notify debtors of their delinquent debt (Louis v. McMahon; 63 FR 44986, 44987, 71204; ACIN I-09-00; 63-102(d)(3), 63-801.45)

410-18B

Specific mandate to use Form MC 355 as request for information form, contents of the form, time limits, county requirements (ACWDL 01-39)

410-20

CDHS policies as to how to deal with individuals in LTC facilities who are incompetent, comatose or suffering from amnesia; ACWDL 02-28 rescinded (ACWDL 02-28, 02-42; 42 CFR 435.906-435.908; 50163)

414-4A

Requirements for two contacts, then specific NOA, if county is to deny applications for failure to provide information; discontinuance actions governed by SB 87 (ACWDL 90-07, 97-48, 02-59)

430-14

Allocations in the QMB, SLMB, QI, and 250% working disabled programs in 2002 and 2003 (ACWDL 01-66, 02-56)

431-3

Transfers, CSRA (42 USC 1396r-5(f); ACWDL 98-49, 99-59, 00-58, 01-63, 02-53)

431-4

MMMNA, basic plus adjustments for indexing, at state hearing (42 USC 1396r-5(d), (e), (g); ACWDL 00-58, 01-63, 02-53)

432-6

Allocations in the QMB, SLMB, QI, and 250% working disabled programs in 2002 and 2003 (ACWDL 01-66, 02-56)

433-6

Allocations in the QMB, SLMB, QI, and 250% working disabled programs in 2002 and 2003 (ACWDL 01-66, 02-56)

437-1

Establishment of QI program, and interim procedures; QI-2 program discontinued 12/31/02; QI-1 program discontinued 9/30/03 (ACWDL 97-45, 98-15, 98-47, 03-02, 03-20)

437-4

QI-1 program payments and eligibility criteria; program discontinued 9/30/03 (MEPM 5J-5; ACWDL 03-20)

437-5

QI-2 program payments and eligibility criteria; program discontinued 12/31/02 (MEPM 5J-5, 6; ACWDL 03-02)

437-6

Allocations in the QMB, SLMB, QI, and 250% working disabled programs in 2002 and 2003 (ACWDL 01-66, 02-56)

440-4

County must reevaluate eligibility under other Medi-Cal categories if eligibility ceases under one category; aid pending continues, effective 7/1/01 (50183(a); MEPM 4-0-3; W&IC 14005.31, .32, .37; ACWDL 02-59)

445-5

Presumptive disability criteria (MEPM 22C-3.6, revised 3/22/02)

447-8

SSI payment levels to determine if Pickle eligibility exists (ACWDL 01-04, 01-69, 02-21, 02-55)

447-10

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

449-3

SSI discontinued individuals receive continued benefits effective June 30, 2002, until CDHS issues new instructions; new instructions issued (ACWDL 02-45, 02-54, 03-24; Craig v. Bontá)

504-1A

BIC cards have replaced MC 177 forms and Medi-Cal cards in all counties as of 6/1/97 (Denti-Cal Bulletin Vol. 13, No. 13 (6/97); 50653.3, 50657; ACWDL 96-06)

526-4A

BIC cards have replaced MC 177 forms and Medi-Cal cards in all counties as of 6/1/97 (Denti-Cal Bulletin Vol. 13, No. 13 (6/97); 50653.3, 50657; ACWDL 96-06)

531-1B

5-year limitation on prosthetic appliance replacement applies only to appliances provided by Denti-Cal (Denti-Cal Provider Manual 4-32)

531-1C

When prosthetic appliance can be authorized more than once in five-year period (Denti-Cal Provider Manual 4-32, 33)

531-3A

Provider Manual criteria for restorative dentistry and crowns (Denti-Cal Provider Manual 4-28, 30)

531-6

Denti-Cal criteria for periodontal services (Denti-Cal Provider Manual 4-23)

531-11

Orthodontic requirements for handicapping malocclusion (Denti-Cal Provider Manual 4-37, 38, rev. 12/99)

531-11D

Handicapping malocclusion rules apply to cleft palate deformities when care is under CCS or when documented and necessary under the dental services program (Denti-Cal Provider Manual 4-38)

531-11E

Description of covered and non-covered orthodontic benefits in the Denti-Cal program (Denti-Cal Provider Manual 5-77)

531-12

Old rule: Dental coverage under the CHDP program (Denti-Cal Provider Manual 5-90)

539-2

NOA to Medi-Cal recipient required when TAR has been submitted and denied or modified (ACWDL 86-8; Jackson v. Rank)

1318-6

Alternate sitting and standing (POMS-DI 25020.005; SSR 83-12)

New

001-14

Parties must be prepared on substantive issues unless hearing is limited to jurisdictional issue (22-049.53)

010-7A

Parties must be prepared on substantive issues unless hearing is limited to jurisdictional issue (22-049.53)

062-2

Disabled children who can't complete high school by age 19 may receive CalWorks unless CDSS can show issuance of benefits would cause a substantial financial hardship to the State (Fry v. Saenz)

109-29A

NOA requirements when approving or denying a request for exception or exemption to 60-month limit (42-302.34)

151-1A

Calculation determination of overpayment, generally, nonexcess property cases (44-352.12)

152-2

Calculation of excess property overpayment (44-352.11)

410-18C

Required SB 87 procedures for counties evaluating Medi-Cal eligibility (ACWDL 02-59)

410-18E

County must reevaluate eligibility under other Medi-Cal categories if eligibility ceases under one category; aid pending continues, effective 7/1/01 (50183(a); MEPM 4-0-3; W&IC 14005.31, .32, .37; ACWDL 02-59)

417-2F

Required SB 87 procedures for counties evaluating Medi-Cal eligibility (ACWDL 02-59)

418-2

ICT rules (ACWDL 03-12)

420-2

Unnecessary to obtain MC 13 from self-declared U.S. Citizens or naturals (ACWDL 03-14)

420-3

Persons automatically U.S. Citizens or nationals if born in specified locations (ACWDL 03-14)

430-28

Safe Aims for Newborns eligibility (ACWDL 03-26; W&IC 14005.24)

438-5A

Deductions and limits for A&D FPL program in 2003 (ACWDL 03-21)

444-4F

Sanctioned WTW persons and CalWORKs Aus discontinued for failure to provide a monthly or annual income report are still 1931(b) eligible (ACWDL 02-59)

449-3A

SB 87 procedures to be applied to Craig (discontinued SSI persons) beneficiaries (ACWDL 03-24)

450-1

How to treat persons under age 21, living away from their parent's home (MEPM 8C-1, 2, 3)

483-4A

Evidentiary requirements when property is in applicant's or beneficiary's name and it is claimed that the property belongs to another (ACWDL 90-01)

492-2C

Requirement to give applicants notice that a home can be transferred for less than FMV (ACWDL 02-60; W&IC 14006.7)

505-1A

Basic Medi-Cal beginning date of aid rule (50193(c), replacing 50701(c), eff. 9/19/00)

576-1A

MSSP program eligibility requirements and goals (ACWDL 03-22)

576-7

MSSP eligibility determination (ACWDL 03-22)

825-3F

"Entered the United States" and "entry date" defined for CAPI purposes (49-020.4)

1200-5

U.S. Supreme Court analysis of abuse of discretion (Motor Vehicle Mfrs. Ass'n v. State Farm Mutual.)

1200-6

Review standards for abuse of discretion in California (Asimow, Michael, 42 UCLA L.R. 1157)

1302-5

Mentally incapacitated person who was unrepresented at time of discontinuance from SSA disability is entitled to review discontinuance even when filing is more than 15 years late (Udd v. Massanari; SSR 91-5p)

1304-14

What the Title XVI disability decision must contain (SSR 86-8)

1308-1X

Glossary of term from SSR (SSR 83-10)

1310-1

Sequential evaluation process (SSR 86-8)

1316-7

SSR guidance on transferability (SSR 82-4)

1318-11

Guidance when exertional capacity falls between two rules (SSR 83-12)

1321-5

Ability to do other work (SSR 83-12)

1321-6

Ruling on combination of exertional/nonexertional components (SSR 83-14)

1322-2A

Onset dates per Ruling (SSR 83-20)

1331-18

Loss of use of an upper extremity (SSR 83-12)

1345-6

Federal ALJ must go through five-step disability evaluation process before determining whether drug or alcohol use is relevant to the disability determination (Bustamante v. Massanari; 20 CFR 416.935)

*California Department of Social Services - State Hearings Division
Notes from the Training Bureau - May 1, 2003*

Item 03-05-01J

ACWDL 03-21 -- April 23, 2003 (Synopsis): 2003 Income Limits for the Aged and
