



CDSS

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September 20, 2017

ALL COUNTY LETTER (ACL) NO. 17-100

TO: ALL COUNTY WELFARE DIRECTORS
ALL INTERIM ASSISTANCE REIMBURSEMENT (IAR) PROGRAM
MANAGERS
ALL CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI)
MANAGERS

SUBJECT: **CAPI INDIGENCE EXCEPTION DETERMINATION FORM SOC 813
UPDATE (7/16)**

REFERENCES: [MANUAL OF POLICIES AND PROCEDURES \(MPP\) §§49-015.13, 49-035, 49-037, 49-040, 49-060.1\(d\), 49-070; PROGRAM OPERATION MANUAL SYSTEM \(POMS\) §§SI 00502.280\(B\), SI 00502.280\(B\)\(1\)\(b\), SI 00835.060\(A\), SI 00835.482; SOCIAL SECURITY ADMINISTRATION SSI POLICY INTERPRETATION #SSR 92-8p \(9/8/92\)](#)

UPDATED SOC 813 FORM WITH INSTRUCTIONS

The purpose of this All County Letter (ACL) is to clarify expectations in regard to county completion of the Cash Assistance Program for Immigrants (CAPI) indigence exception form (SOC 813, dated 7/16). Although this form is largely self-explanatory and has not changed significantly in decades, it has been updated for the purpose of providing instructions on how to complete each field. This should help to reduce confusion regarding the number of boxes that must be checked in each section. If a county is still using older versions of the SOC 813 (2014 or earlier), please destroy all paper copies on hand and begin using the 7/16 version immediately as CDSS will no longer accept outdated forms.

Top Section of Form

Check boxes for “Initial Claim” and “Redetermination” appear in the upper right corner of SOC 813. Please check only one of these boxes. If an application for indigence

REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order
- ☐ Clarification Requested by One or More Counties
- ☒ Initiated by CDSS

exception was previously denied and the applicant is reapplying, please use the “Initial Claim” box.

- Check the “Initial Claim” box if the applicant is not currently receiving CAPI benefits under the indigence exception to the sponsor deeming rules. This box should also be checked if an application for indigence exception was previously denied and the applicant is applying again.
- Check the “Redetermination” box if the applicant is currently receiving CAPI benefits under the indigence exception to the sponsor deeming rules. This includes annual redeterminations conducted in accordance with the requirements of Manual of Policies and Procedures (MPP) §49-070 as well as redeterminations conducted for other reasons (such as a change in the applicant’s financial circumstances).

County identification. The SOC 813 now includes a “County of” line just below the form title. This is the name of the county filling out this form. This will allow CDSS to identify the county completing the form (for statistical purposes and to facilitate any necessary clarifications).

Name(s) of Applicant(s) or Recipient(s). There are fields for the name of the applicant/recipient as well as for the name of the applicant’s or recipient’s spouse. The “Spouse” field must only be used for CAPI couples. If only the wife or only the husband is applying for or receiving the indigence exception, counties should leave the “spouse” field blank (even if applicant/recipient is married).

Date of Birth and Case Number. Counties should be aware that the SOC 813 no longer contains fill-ins for the Social Security Numbers (SSN) of the applicant, applicant’s spouse and sponsors. Those fields were removed due to privacy and security concerns. On the “Name of Applicant/Recipient” lines, the former SSN field has been replaced with fill-ins for the applicant’s date of birth and the county case number. Completing these fields will allow the county and the state to accurately identify the applicant.

Counties should use a single form for CAPI couples. The case number for each spouse should be listed, which may be the same or different depending on whether a county combines CAPI couples into a single case or uses a separate case number for each spouse.

Sponsor’s Name. Two lines are provided for the names of the applicant’s/recipient’s sponsors. If the applicant or recipient has two sponsors, counties should list the name of each sponsor on a separate line. If the applicant or recipient has three or more sponsors, an additional form should be attached.

Section A: Living Arrangements

The check boxes in this section have been divided into two parts and instructions have been added. This is intended to reduce user confusion that has frequently resulted in not enough boxes or too many boxes being checked.

- Either Box #1 or Box #2 should be checked (applicant “Lives with sponsor” or “Does not live with sponsor”). If applicant lives with his or her sponsor, the indigence exception does not apply (skip directly to Section D). See also MPP §49-037.421.
- Choose from Box #3, 4, 5 or 6. Only *one* of these boxes may be checked.
 - If the applicant lives with others and pays for room and board, Box #3 should be checked. This box should not be checked if “Total of income from all sources” in Section B is zero. A CAPI applicant cannot pay for room and board without the means to do so. Checking Box #3 is an indication that the county has verified that the applicant does in fact have sufficient income and/or resources to pay for room and board.
 - If the applicant lives independently, Box #4 should be checked and the comments field in Section D should be used to describe how the applicant obtains food and shelter.
 - Box #4 should not be checked if applicant is homeless (see below). Box #6 should be checked instead.
 - Box #4 should not be checked if “Total income from all sources” in Section B is zero. A CAPI applicant cannot live independently without the means to do so.
 - If the applicant lives with others and receives *free* room and board, Box #5 should be checked and the worker may skip directly to Section D. The indigence exception does not apply. See also MPP §49-037.422.
 - If the applicant is homeless, Box #6 should be checked.

When is an applicant considered “homeless?”

An applicant for the indigence exception should be considered homeless if he or she “is an individual with no permanent living arrangement, *i.e.*, no fixed place of residence.” See also [Program Operations Manual System \(POMS\) §00835.060\(A\)](#). Examples provided by the POMS include:

- transients who sleep in doorways, homeless shelters, parks, bus stations, etc.
- those staying with a succession of friends and relatives (“couch surfing”) who have no permanent living arrangement at the first moment of the month.

Additionally, applicants are considered homeless if they have not been paying their room or apartment rent due to a lack of funds and, as a result, have received a notice to quit.

Section B: Monthly Income

This section of the worksheet is divided into a portion for redeterminations only and a section to be completed for all cases. The federal Supplemental Security Income (SSI) rate appears at the end.

- *Redeterminations Only* – In this field, the recipient’s current monthly CAPI payment should be listed. If the application is being submitted by a CAPI couple, then the entire amount of CAPI received monthly by both spouses would be listed here. If the applicant is not currently receiving CAPI through the indigence exception to the sponsor deeming rule, this field should be left blank.
- *All Cases* – This area is to be completed for both initial cases and redeterminations. This part of Section B should be used to list the applicant’s income from the following sources:
 - Total cash and in-kind distributions from *sponsor(s)* – This includes money and any food, clothing or shelter that the sponsor gives to the applicant (both applicants, in the case of a CAPI couple). (See also MPP §49-035.51.) “Shelter” includes room, rent, mortgage payments, real property taxes, heating fuel, and services such as gas utility payments, electricity, water, sewer and garbage collection. (See MPP §49-035.511.)
 - Total cash and in-kind contributions provided to the applicant (both applicants, in the case of a CAPI couple) by anyone *other than* the sponsor(s) – In this field, the total of the applicant’s or recipient’s *unearned* income should be entered. This includes the cash value of any public benefits other than CAPI that the applicant currently receives (General Relief, CalFresh, CalWORKs, etc.). Also included are annuities, pensions, alimony, support payments, dividends, interest, rental income, prizes, gifts, gambling winnings and in-kind support and maintenance (any food, clothing or shelter paid for or provided by someone else). (MPP §49-035.5.) If the applicant or recipient resides with his/her spouse, the

spouse's unearned income should be included (even if the spouse is neither applying for nor receiving CAPI).

- Total of recipient's/applicant's other income. In this field, the total of the applicant's or recipient's *earned* income should be entered. This includes any income received by the applicant that was not entered on either of the two previous lines, e.g., wages and salaries, interest, stock dividends. (See MPP §49-035.3). If an applicant resides with his or her spouse, this would include all other income received by the spouse, even if the applicant is applying for CAPI as an individual (spouse is not applying for CAPI).

Total income from all sources – This is the sum of the figures on the previous three lines.

- Federal SSI Rate – If both spouses are applying for CAPI, use the couples' rate.

Section C: Resources

Resources include any cash or liquid assets or real or personal property owned by the applicant (or owned by the applicant's spouse) that could be converted to cash to be used for the applicant's support and maintenance. MPP §49-040.21 For purposes of the indigence exception, in-kind items should be evaluated at their actual value, not the presumed maximum value (PMV). See ([POMS §SI 00502.280\(b\)\(1\)\(b\).](#))

- On the first line of this section, the value of any resources owned by the sponsor (including the sponsor's spouse) that the sponsor makes available to the applicant/recipient should be listed.
- On the second line, the value of the applicant's/recipient's *own* resources should be listed. If applicant is residing with his or her spouse, the spouse's resources (whether the spouse is applying for CAPI or not) should be included.
- Total resources available to the applicant/recipient – This represents the sum of the values listed on the previous two lines.

Federal SSI resource limit – For spouses who are both applying for CAPI, the couples' rate should be used. The individual rate should be used for those who are applying for CAPI as an individual only, whether or not the applicant is married.

Section D: Comments

In this field, a brief narrative must be entered describing the circumstances influencing the county's decision as to whether to grant or deny the indigence exception. Please

include a description of the applicant's current living situation. Additionally, the county must indicate whether completed and signed forms [SOC 860](#) and [SOC 453](#) are on file in the case. Completion of this field is required in order to provide insight into how the county's decision was made. The CDSS will not accept forms on which the Comment section is left blank.

Examples of helpful comments:

- Resident of California Garden Apts., 123 Main St., Watertown, and paying \$500 rent monthly for a 1 BR unit. Sponsor submitted SOC 860 and SOC 453 is on file.

The SOC 860 is on file. Sharing single-family home at 16602 Ryder Road, Beauville, with another couple and paying half of the \$975 monthly rent. Applicants purchase their own food. The SOC 453 is on file.

- Currently residing in Municipal Homeless Shelter, 1504 Orange Way, Sacramento. Sponsor completed SOC 860 and SOC 453 is on file.

Also, counties should include any other information regarding the applicant's circumstances that the county found significant in the course of making the indigence exception determination. Examples: Inter-county transfer, application upon release from skilled nursing facility, living in a motel room, etc.

Bottom Section of Form

- Only one box should be checked to indicate whether the county determined that the indigence exception "does" or "does not" apply. The CDSS cannot accept any SOC 813 on which neither box is checked or both boxes are checked.
- An eligibility worker must sign and date the form (it must be an actual signature, not an employee number).
- A county supervisor must sign and date the form.

Please note that the same county employee may not sign in both the eligibility worker and supervisor fields.

NOTES ON LOANS TO THE APPLICANT

When making indigence exception determinations on form SOC 813, counties often list an indigent CAPI applicant's or recipient's income and resources as zero. While this is acceptable for homeless applicants, it presents a conflict in the case of applicants who claim to be living independently or living with others and paying for room and board.

This apparent contradiction must be explained in detail in Section D. Often, the applicant claims to be borrowing money in order to continue paying for shelter and food.

In such cases, the county must obtain detailed information regarding the applicant's loan arrangements in order to determine whether this is truly a loan that must be repaid (a "genuine loan") or whether this is actually a gift (applicant is receiving free room and board or funds to purchase shelter and food and therefore would not qualify for the indigence exception).

It is CDSS policy that counties and CAPI consortia use a three-step process to determine whether an applicant claiming to be supported by loans qualifies for the indigence exception. Please note CDSS will provide the counties with training on this three-step process.

Step 1: Obtain a Written Statement from the Lender

When an applicant with little or no income or resources claims to pay for shelter and food with borrowed funds, it is CDSS policy that the county require the applicant to submit a written statement from the lender indicating the amount of money borrowed, a detailed description of any repayment arrangements established and whether the lender resides with the applicant. There is no particular form prescribed for this purpose. The CDSS has not developed such a form in order to encourage the lender to describe the terms of the loan in his/her own words. Please note that the county is entitled to disbelieve statements of the lender or claimant when they contradict other evidence available to the county.

The burden of proof with respect to the bona fide nature of a loan is with the applicant or recipient. [Social Security Administration SSI Policy Interpretation #SSR 92-8p\(9/8/92\)](#). Accordingly, when an applicant fails to supply a written statement from the lender, CAPI should be denied (initial application) or CAPI benefits should be terminated (for redeterminations). (See MPP §§49-015.13, 49-060.1(d).)

Step 2: Determine Whether the Loan is Genuine

Using the written statement of the lender, and considering all circumstances of which the county is aware, the county must determine whether the purported loan must be repaid or is actually a gift that need not be repaid (*i.e.*, a gift of free food and shelter). A genuine loan must be given and accepted based on the understanding that it is to be repaid by the borrower. The obligation to repay:

- must be acknowledged by both the lender and the borrower, and
- must be unconditional.

It is CDSS policy that a purported loan that need not be repaid (or that cannot reasonably be expected to be repaid) is not a genuine loan, but a gift. A purported loan of food and shelter, or money purportedly loaned for the purposes of purchasing food and shelter, is actually a gift of free food and shelter if:

- the “loan” need not be repaid, or
- the “loan” cannot reasonably be expected to be repaid, or
- the “loan” must only be repaid under certain conditions (such as if CAPI is granted).

Accordingly, a loan should be considered genuine if the county or CAPI consortium is satisfied, based on all available evidence, that: 1) the loan must be repaid under any circumstances, *i.e.*, not a conditional loan; and 2) that the applicant *currently* (prior to a decision on the CAPI application) has a sufficient stream of income and/or sufficient resources where there may be a reasonable likelihood of repayment.

Conditional Loan

A conditional loan is not a genuine loan because it must be repaid only if certain conditions occur. If those conditions do not occur, the loan need not be repaid. For example, if the lender’s affidavit contains statements such as “I would like her to pay me back” or “he must start paying rent from his CAPI,” those are conditional statements indicating that the funds provided to the applicant are in the nature of a gift, not a loan. “I would like her to pay me back” indicates a preference rather than loan terms that will be enforced. “He must start paying rent from his CAPI” indicates that applicant will likely not be required to repay the loan if CAPI is denied. Conditional loans of food and shelter and conditional loans of money for the purpose of purchasing food and shelter must be treated by the county as gifts.

No Reasonable Likelihood of Repayment

For a loan to be genuine, repayment must be *feasible*. Under federal Social Security Administration policy, “the case facts must show that the individual can repay the loan using his or her own resources and income.” [POMS §SI 00835.482\(B\)\(5\)](#). Accordingly, the county must carefully scrutinize apparently unequivocal statements such as “The loan must be repaid in monthly installments beginning in January 2017.” Such statements do not automatically indicate that the loan is genuine. Please note that even if the terms of the loan indicate that the CAPI applicant is expected to (and has agreed to) repay the loan under any circumstances, the loan is not genuine unless the county finds that such expectation is reasonable. For example, if an applicant who reports zero income and resources has, based on all evidence available to the county, little or no

prospect of obtaining funds with which to repay the loan should CAPI be denied, the county may determine that, in the absence of CAPI, there is no reasonable likelihood that the loan will ever be repaid. In such cases, the county may find that repayment of the purported loan is not feasible. The county is entitled to disbelieve the lender's assertion that the loan must be repaid and to determine that the purported loan is not genuine, but is in fact a gift of free shelter and food.

Step 3: Complete the SOC 813 Indigence Exception Determination Worksheet

Genuine Loans

If the county or CAPI consortium finds that the loan is genuine (not a conditional loan or gift):

- In the lower part of Section A on the SOC 813, Box #3 ("lives with others and pays for room and board") or Box #4 ("lives independently") should be checked, as appropriate. Section D of the form should be used to provide details regarding the applicant's or recipient's living arrangements.
- Sections B and C (income and resources) of the worksheet should be used to determine whether the applicant or recipient is able to obtain both shelter and food. For this purpose, all cash and in-kind available to the applicant/recipient must be considered, including:
 - All of the applicant's own income, and
 - The income and resources of the applicant's spouse (if living together), and
 - Any cash, food, housing or other assistance provided by other individuals or agencies (including the sponsor).

(See MPP §49-037.443 and [POMS §SI 00502.280\(B\)](#).)

- If a cash or in-kind loan is genuine, its value must be included in the applicant's gross income and resources for the purpose of determining a CAPI applicant's ability to purchase shelter and food and must therefore be listed in Sections B or C of SOC 813. **Note:** This should not be confused with determinations as to whether an applicant exceeds the CAPI income standards of MPP §49-035.1, which the county calculates using the detailed income and expense statement on form [SOC 814](#). For that purpose, borrowed funds are not considered income to the applicant. (See also MPP §49-035.66.)

Other Purported Loans

If a county or CAPI consortium determines that a purported loan is not genuine, it is not a loan but a gift. **When an applicant's needs for shelter and food are satisfied by gifts of in-kind food and shelter or by money provided for the purchase of food and shelter, the CAPI applicant/recipient is ineligible for the indigence exception.** This is true because the indigence exception applies only when the applicant or recipient is unable to obtain both food and shelter. (MPP §49-037.412.)

- When a CAPI applicant/recipient resides in the household of any of his/her sponsors, he or she is being provided with the gift of free shelter and food. Accordingly, the indigence exception does not apply. The MPP §49-037.421 states "If the alien is living with his or her sponsor, assume that the sponsor is providing food and shelter, so alien is meeting his or her food and shelter needs." (See [POMS §SI 00502.280\(B\)\(1\)\(a\).](#))
- The indigence exception does not apply when the non-citizen lives with someone other than the sponsor and receives free room and board. (MPP §49-037.422.) This includes applicants/recipients whose landlords indicate that they are lenders and that the immigrant must repay the value of the shelter and food received during the time that the immigrant shares the lender's home.
- Additionally, it is CDSS policy that the indigence exception does not apply even when an applicant(s)/recipient(s) lives independently and receives free room and board (or the gift of money with which to purchase room and board). This is because the applicant's/recipient's shelter and food needs are being met. For the indigence exception to apply, the applicant or recipient must be *unable* to obtain food and shelter. (MPP §49-037.412.) "If the alien receives free room and board, the exception does not apply, even if the alien's total income is less than the federal benefit rate." (See [POMS §SI 00502.280\(B\)\(1\)\(b\).](#))

Example 1

When the applicant's sponsor stops supporting him, the applicant moves into his son's two-bedroom apartment in Los Angeles. The applicant is unable to work due to a disability and claims zero income and resources. The applicant applies for CAPI under the indigence exception to the sponsor deeming rule, stating that he is unable to pay for shelter and food and that his son is lending him the money to rent the spare bedroom in his apartment. The county requests that the applicant's son provide a detailed description of the loan repayment terms. In his written statement, the purported lender states that his father must use his CAPI check to repay him for the food he has been supplying and the monthly rent of his spare bedroom. This is a "conditional loan" in that applicant will not be required to repay the borrowed funds if CAPI is denied. Therefore,

the applicant is receiving free shelter and food and does not qualify for the indigence exception. In evaluating this CAPI application, sponsor deeming continues to apply.

Example 2

A husband and wife, both age 85 and disabled, apply for CAPI after their joint sponsor evicts them. The applicants indicate that they have zero income and resources and are living independently in an apartment in Fresno. The applicants state that a family friend is lending them money to pay for rent and food. As the applicants have the burden of proving that the loan is genuine, the county requests that the lender provide a detailed description of the loan repayment terms. In her written statement, the lender indicates that the applicants must repay the loan whether they are approved for CAPI or not. The county is entitled to determine that, contrary to the lender's expectations, based on all available evidence the applicants have no prospects of income from any source and thus will be unable to repay the lender if CAPI is denied. Such a finding would indicate that the purported loan is not genuine and that the lender is actually providing applicants with a gift of free shelter and food. Therefore, the applicants would not qualify for the indigence exception and sponsor deeming would continue to apply.

For any questions regarding the information contained in this letter, counties should contact Aron Smith, Cash Programs Manager, Adult Programs Division, Policy and Quality Assurance Branch, Program Integrity and Cash Assistance Programs Bureau at aron.smith@dss.ca.gov or (916) 651-1174.

Sincerely,

Original Document Signed By:

DEBBI THOMSON
Deputy Director
Adult Programs Division

Attachment