



CDSS

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EDMUND G. BROWN JR.  
GOVERNOR

June 6, 2018

ALL COUNTY LETTER (ACL) NO. 18-26

REASON FOR THIS TRANSMITTAL

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

TO: ALL COUNTY WELFARE DIRECTORS  
ALL CALWORKS PROGRAM SPECIALISTS  
ALL CONSORTIA PROJECT MANAGERS  
ALL CALFRESH PROGRAM SPECIALISTS

SUBJECT: CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO KIDS (CalWORKs) PROGRAM – IMMEDIATE NEED PAYMENTS AND OVERPAYMENTS (OPs)

REFERENCES: [WELFARE AND INSTITUTIONS CODE \(WIC\) SECTIONS 11056 AND 11266](#); [MANUAL OF POLICIES AND PROCEDURES \(MPP\) SECTIONS 40-105.151, 40-107, 40-129, 43-119.23, 44-103.23, 44-350, AND 44-352.](#)

The purpose of this letter is to provide County Welfare Departments (CWDs) guidance on overpayments and how they are applied to immediate need payments. This ACL will provide clarity on whether an overpayment for an immediate need payment is appropriate when the applicant is later determined ineligible for CalWORKs despite having been determined apparently eligible during the intake process when the immediate need payment was issued.

### **Immediate Need Payments**

The WIC §11056 mandates that if an applicant is determined to be eligible, aid shall be granted from the date of application if the applicant meets all eligibility conditions on that date. Therefore, a CWD is properly granting aid where eligibility has been established. Furthermore, WIC §11266(a) states CWDs shall determine whether the applicant needs immediate need assistance because the individual does not have the sufficient resources to meet their emergency needs, and shall determine whether the applicant is apparently eligible for aid.

The MPP §40-107(c) states that the county is responsible for determining eligibility in accordance with numerous eligibility factors, but specifies these factors are not meant to prevent the county from granting immediate need payments.

The WIC §11266(b) and MPP §40-129.231 allow for an immediate need payment of \$200 or the maximum amount the applicant is eligible for in the month of application, whichever is less. CWDs are reminded that the advance payment shall be made by the end of the first working day following the request for aid. CWDs shall verify the applicant's eligibility for aid within 15 working days of the date that immediate need is requested and advance payments under this section must be offset against the first grant payment made to the recipient per WIC section 11266.

Furthermore, MPP §40-129.2 states that eligibility for an immediate need payment exists when the applicant meets all of the following conditions:

- Is apparently eligible as defined in MPP §40-129.1, in which the information provided in the Statement of Facts and information otherwise available to the county indicates the applicant would be eligible for aid if the information on the Statement of Facts were verified;
- Has an emergency situation, which cannot be addressed by the issuance of food stamps or homeless assistance or by referral to a community resource;
- Has resources that do not exceed the resource limitation as specified in MPP §40-129.22.; and
- Has complied with the technical conditions for cash aid under MPP §40-129.214 (e.g. met social security number enumeration requirements, applied for unconditionally available income, etc.).

According to MPP §40-129.13, an emergency situation means one or more of the following exist:

- Lack of housing;
- Pending eviction;
- Lack of food;
- Utility shutoff notice;
- Inability to meet transportation needs;
- Lack of essential clothing; and
- Other emergencies of similar importance to the family's immediate health and safety.

The county may not deny immediate need payment even if CalWORKs eligibility is not verified within the immediate need time frame except as required under MPP §40-129.11(a) (verification of citizenship status) and (b) (medical verification of pregnancy for pregnant women with no other eligible children).

## **CalWORKs Overpayments**

A CalWORKs overpayment is defined by MPP §44-350.15 as any amount of any aid payment that an Assistance Unit (AU) received to which it was not eligible. An overpayment may be all or a portion of an aid payment including immediate need payments.

The MPP §44-350.151 specifies that an overpayment shall not include aid paid where all of the following prerequisites are met:

- An applicant or recipient fails to perform an act constituting a condition of eligibility for aid per MPP §40-105.21, §43-119.23, and §44-103.23. Below is a description of these regulations:
  - **40-105.21:** A CalWORKs applicant or recipient shall furnish a Social Security Number;
  - **43-119.23:** Eligibility responsibilities for sponsored noncitizens; and
  - **44-103.23:** The county shall deny or discontinue aid, including immediate need, to the AU when the applicant or recipient fails or refuses to provide information necessary to determine income;
- The applicant's or recipient's failure to perform an act constituting a condition of eligibility is caused by a state agency error or CWD error and not by an applicant or recipient error;
- The amount of aid paid would have been the same had the act constituting the condition of eligibility been performed; and
- The state agency or CWD error is discovered, calculated, or being recouped on or after January 1, 1985.

In accordance with MPP §44-350.16, the county shall take all reasonable steps necessary to correct and collect any overpayments that are known to the county unless the overpayment is nonfraudulent and totals less than \$35 from individuals no longer receiving aid. If the overpayment is \$35 or more, the county shall send a demand notice for repayment and no further collection efforts shall be made if the county determines that the cost to collect the overpayment exceeds the amount to be recovered. Please refer to MPP §44-352.4 for information on overpayment recoupment.

## **Immediate Need Overpayments**

An immediate need payment is only an overpayment if the applicant was not apparently eligible for CalWORKs when the immediate need payment was issued. A finding by the county that the AU is not eligible for CalWORKs after full evaluation of the application does not, by itself, mean that the immediate need payment is an overpayment.

Unless the AU failed to comply with requisites of MPP §44-350.151 as detailed above, the immediate need payment is not an overpayment when the AU is determined ineligible later. In addition, a change in circumstances between issuance of immediate

need and full evaluation of the application does not make the immediate need payment an overpayment unless the applicant was not apparently eligible for CalWORKs when the immediate need payment was issued based on the applicant's circumstances at the time the immediate need payment was issued.

**Below are some examples of when CWDs can assess an overpayment for an immediate need payment.**

*Example #1:*

An individual applied for CalWORKs cash assistance and was issued an immediate need payment as the CWD determined that the individual was apparently eligible for the grant.

After issuing the immediate need payment, the CWD determines the individual is not eligible for CalWORKs because of income attributed to an adult who was a member of the household when the immediate need grant was issued but the client did not report it to the county during the intake process. In this scenario, the individual would not have been eligible for the immediate need grant and the CWD can assess an overpayment.

*Example #2*

An individual applied for CalWORKs cash assistance and was issued an immediate need payment as the CWD determined that the individual was apparently eligible. The eligibility was based on the client's statement that she had a pending claim for Workers' Compensation benefits but was told that she would not receive the Workers' Compensation benefits for two to three months and the amount was not yet determined.

However, the individual had already received her first \$2,000 Workers' Compensation payment when the immediate need payment was issued, which would have made her ineligible for CalWORKs. In this situation, the individual is liable for an overpayment because she would not have been determined eligible for the immediate need payment had the CWD known that she received the \$2,000.

**Below are some examples of when CWDs cannot assess an overpayment for an immediate need payment.**

*Example #1:*

An individual applied for CalWORKs cash assistance and was issued an immediate need payment. When the applicant applied, she was the only adult in the household

and the CWD determined she was eligible for CalWORKs cash assistance and issued the immediate need payment.

After issuing the immediate need payment, the CWD determines the individual was not eligible for CalWORKs because of income attributed to an adult who was not a member of the household when the immediate need payment was issued, but who returned to the household before the final determination of CalWORKs eligibility.

In this example, the individual is not liable for an overpayment as the CWD correctly determined she was eligible for the immediate need payment when it was issued.

*Example #2:*

An individual applied for CalWORKs cash assistance and was issued an immediate need payment as the CWD determined that the individual was apparently eligible for the grant. The CWD determined apparent eligibility based on the individual's statement that she had a pending claim for Workers' Compensation benefits but was told that she would not receive the Workers' Compensation benefits for two to three months and the amount was not yet determined.

However, two weeks after the immediate need payment was issued and before the regular application was processed, the individual received a \$2,000 Workers' Compensation payment and a letter that she would receive \$1,500 in Workers' Compensation benefits per month. In this scenario, the individual is not liable for an overpayment because she was apparently eligible when immediate need was issued because the Workers' Compensation benefit was not reasonably anticipated income.

**Claiming instructions**

Clarified and updated claiming instructions for immediate need payments will be issued in a forthcoming County Fiscal Letter.

**Contact Information**

If you have any questions concerning this letter, please contact the CalWORKs Eligibility Bureau at (916) 654-1322.

Sincerely,

***Original Document Signed By:***

TODD R. BLAND  
Deputy Director  
Family Engagement & Empowerment Division

c: CWDA