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ACTING DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**  
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GAVIN NEWSOM  
GOVERNOR

February 21, 2019

ALL COUNTY LETTER (ACL) NO. 19-19

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

SUBJECT: CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO  
KIDS (CalWORKs) PROGRAM: IMPLEMENTATION OF SENATE  
BILL (SB) 726 (CHAPTER 930, STATUTES OF 2018)

REFERENCE: [SENATE BILL \(SB\) 726 \(CHAPTER 930, STATUTES OF 2018\);](#)  
[TITLE 45, CODE OF FEDERAL REGULATIONS \(CFR\) SECTION](#)  
[233; WELFARE AND INSTITUTIONS CODE \(WIC\) SECTIONS](#)  
[11004 and 11004.1\(b\); MANUAL OF POLICIES AND](#)  
[PROCEDURES \(MPP\) SECTIONS 20-003, 20-004, 20-007, 44-](#)  
[350.15, 44-350.16, 44-352.1 AND 44-352.4.](#)

The purpose of this ACL is to provide guidance to County Welfare Departments (CWDs) regarding implementation of SB 726 (Chapter 930, Statutes of 2018), signed by the Governor on September 29, 2018. Effective July 1, 2019, SB 726 will increase the threshold for which CalWORKs overpayment recovery is pursued, and implement an expungement process for CalWORKs overpayments, as specified in this letter. In addition, SB 726 allows for mass overpayment expungement if it was caused by a major systemic error or negligence, as defined by the California Department of Social Services (CDSS). **In order to avoid confusion with the Electronic Benefit Transfer expungement process, the CalWORKs overpayment expungement process will be henceforth referred to as the CalWORKs overpayment discharge process.**

## CalWORKs Overpayment Threshold

### Current Policy

Pursuant to MPP section 44-350.15, a CalWORKs overpayment is any amount of any aid payment an Assistance Unit (AU) received to which it was not eligible. A CalWORKs overpayment may be all or a portion of an aid payment and may include, but is not limited to, an immediate need payment, a special need aid payment or aid paid pending a state hearing. MPP section 44-352.125 provides guidance on overpayment calculation, and MPP section 44-352.4 provides guidance on the methods of overpayment recoupment including grant adjustment, balancing, civil judgement, voluntary cash recovery and voluntary cash offset.

Currently, CWDs must take all reasonable steps necessary to promptly correct and collect any known CalWORKs overpayments, including recovery of overpayments due to either applicant/recipient and/or county administrative errors. Furthermore, CWDs must not demand collection of non-fraudulent overpayments totaling less than \$35 from individuals who no longer receive aid. When the non-fraudulent overpayment amount owed by the unaided individuals is \$35 or more, CWDs are required to send a demand notice for repayment. In addition, CWDs must not pursue additional overpayment collection efforts if the CWD determines the cost to collect the overpayment exceeds the amount to be recovered. MPP 44-350.161(a) instructs CWDs to maintain information regarding uncollected overpayments to enable recoupment should any individuals from the prior overpaid AU reapply for CalWORKs aid.

### New Policy

Effective July 1, 2019, the CalWORKs overpayment threshold will be increased from \$35 to \$250. All other policy aspects of the CalWORKs overpayment threshold remain the same and CWDs are reminded that the overpayment threshold policy applies only to closed cases. When the case is active, CWDs must pursue collection regardless of the amount in accordance with MPP 44-352.4. When the overpayment claim on a closed case is \$250 or more, the CWD may recoup the overpayment. If the overpayment is being repaid in installments, the CWD must cease collection efforts once the balance of the outstanding overpayment falls under \$250. Effective July 1, 2019, CWDs shall not demand collection of any non-fraudulent overpayments totaling less than \$250 from the responsible individual(s) if they are **no longer aided** in California under the CalWORKs program.

When a former CalWORKs recipient has multiple overpayment claims, the \$250 overpayment threshold will apply to each non-fraudulent overpayment claim, rather than the total overpayment figure resulting from grouped overpayment claims. In accordance with existing policy, in cases involving fraud, every effort shall be made to collect the

overpayment regardless of its amount. SB 726 does not make any changes to the definition of fraud under MPP section 20-003 or the referral to the Special Investigative Unit (SIU) for investigation processes under MPP sections 20-004 and 20-007. Please see Attachment B for examples of how the \$250 CalWORKs overpayment threshold will be applicable on or after July 1, 2019.

## **CalWORKs Overpayment Discharge**

### New Policy

In addition to the higher CalWORKs overpayment threshold, SB 726 implements a new CalWORKs discharge process for non-fraudulent overpayments. For the purposes of the CalWORKs program, “discharge” means the overpayment has been end-dated without the possibility of further collection in the consortia systems, Welfare Intercept System, and Franchise Tax Board Intercept System.

Effective July 1, 2019, CWDs shall deem a non-fraudulent CalWORKs overpayment uncollectible and discharge the overpayment if the individual(s) responsible for the overpayment has not received aid in California under the CalWORKs program for 36 consecutive months or longer. If a former client with an outstanding overpayment claim, regardless of the amount, reapplies and becomes a recipient of CalWORKs within the 36-month timeframe, the CWD will resume collection on the overpayment by grant adjustment in accordance with MPP section 44-352.4. The overpayment discharge process also applies to cases where the former client is in a repayment agreement with the CWD or is in a civil judgement agreement as long as the overpayment is not fraudulent. Similar to the CalWORKs overpayment threshold, the CalWORKs overpayment discharge process applies to each CalWORKs overpayment claim, rather than the total overpayment figure resulting from grouped overpayment claims. When the overpayment has been discharged, CWDs shall send the former client an informing notice explaining they are no longer liable for the overpayment. Please see Page Nine for the informing notice.

The new overpayment discharge policy will not affect the current collection process where two or more individuals are liable for the overpayment. Please see Attachment B for guidance on how the discharge process will apply to overpayments with regard to the overpayment threshold effective July 1, 2019.

In addition, effective July 1, 2019, CWDs shall apply the CalWORKs discharge process retroactively to any nonfraudulent outstanding Temporary Assistance for Needy Families (TANF) or CalWORKs overpayment claims established on or after December 1, 1996, where the former client has been off aid for 36 consecutive months or longer.

Until automation is implemented, CWDs must begin identifying former CalWORKs recipients who are responsible for an outstanding overpayment claim(s) and have been off aid for 36 consecutive months or longer to determine whether the overpayments must be discharged under the provisions of SB 726 and begin discharging as soon as administratively possible. Federal law precludes overpayments established prior to December 1, 1996, under the former Aid to Families with Dependent Children (AFDC) program to be discharged. The CWDs shall continue to pursue overpayments established under AFDC in accordance with Section 233 of Title 45 in the Code of Federal Regulations. Please see Attachment A for examples on how to retroactively apply the CalWORKs discharge process to TANF/CalWORKs vs. AFDC overpayments.

#### CalWORKs Overpayment Discharge and Fraud

Pursuant to SB 726, the CalWORKs overpayment discharge process is not applicable to overpayment claims involving fraud or an investigation into suspected fraud. Therefore, overpayments that have been referred to the county SIU are prohibited from being discharged under SB 726 unless the investigation is inconclusive or determines no fraud was committed, and the former client has been off aid for 36 consecutive months or longer. For guidance on fraud and SIU policies, please refer to MPP sections 20-003, 20-004, and 20-007.

The scenarios below provide guidance on how the discharge process and the higher overpayment threshold would apply to overpayments that have been referred to the SIU for fraud investigation on or after July 1, 2019.

#### ***Scenario #1: Overpayments referred to SIU under \$250***

A **former** client has an overpayment claim under the \$250 CalWORKs threshold that has been referred to the local SIU for fraud investigation. The CWD **will not** pursue collection on the overpayment while the SIU investigates.

The CWD will take the following action based on the final determination of the investigation:

- If the SIU investigation is **inconclusive** or determines **fraud was not committed**, the CWD shall discharge the overpayment if the former client has been off aid for 36 consecutive months.
- If the SIU investigation determines **fraud was committed**, the CWD shall pursue collection efforts immediately to recoup the full overpayment amount in accordance with MPP section 44-352.4.

- If the SIU investigation was **not able to make a final determination by the 36<sup>th</sup> month**, the CWD **shall not** discharge the overpayment and **will not** pursue collection efforts on the overpayment. The CWD will take the proper action once the SIU investigation makes a final determination (resume collection or discharge).

***Scenario #2: Overpayments referred to SIU totaling \$250 or more***

A former client has an overpayment claim exceeding the \$250 CalWORKs overpayment threshold that has been referred to the local SIU for investigation into suspected fraud. The CWD **will** pursue collection on the overpayment(s). If the overpayment(s) is being reduced by installments, the CWD will stop pursuing collection when the outstanding balance falls under \$250 while the SIU investigates.

After the 36<sup>th</sup> month, the CWD will take the following action based on the final determination of the investigation:

- If the SIU investigation is **inconclusive** or determines **fraud was not committed**, the CWD shall discharge the remaining amount of the overpayment if the former client was off aid for 36 consecutive months.
- If the SIU investigation determines **fraud was committed**, the CWD shall resume collection efforts until the full amount has been recouped in accordance with MPP section 44-352.4.
- If the SIU investigation was **not able to make a final determination by the 36<sup>th</sup> month**, the CWD shall suspend collection efforts but not discharge the overpayment. The CWD will take the proper action once the SIU investigation makes a final determination (resume collection or discharge).

**Major Systemic Error & Negligence Overpayment Discharge**

SB 726 includes provisions for the discharging of CalWORKs overpayments resulting from negligence and major systemic error as defined by the CDSS. In keeping with our efforts to further align with the CalFresh program, which requires CWDs to report “mass overissuances” of benefits to the CDSS, CWDs shall also report “mass overpayments” of CalWORKs benefits. A “mass overpayment” is defined as an overpayment caused by the same action or inaction that impacts either eight percent of the CWD caseload, or more than 1,000 CalWORKs AUs within the county, whichever is greater.

Effective July 1, 2019, CWDs shall promptly notify the CDSS CalWORKs Eligibility Bureau (CEB) when a mass overpayment has been identified, and include in the notification as to whether the mass overpayment is known to have been caused by either of the following:

1. Negligence or fraud on part of the CWD in the determination of eligibility for CalWORKs AUs, or
2. A major systemic error by the state or CWD.

Upon notification of the mass overpayment, the CEB will determine if these overpayments may be discharged.

### **Other Programs Affected**

The changes to the CalWORKs overpayment process pursuant to SB 726 also apply to the Refugee Cash Assistance, Entrant Cash Assistance, and Trafficking and Crime Victims Assistance Programs per MPP section 69-212. For questions regarding these programs, please contact the CDSS Refugee Programs Bureau at (916) 654-4356.

### **New Notice of Action (NOA): Notice of Overpayment Discharge**

Per MPP section 22-071.1(d), CWDs are reminded to provide adequate notice to former clients regarding CalWORKs overpayments. The CDSS created NOA message TEMP W&I 11004i to inform the liable individual(s) that the outstanding balance has been discharged after the case has been closed for 36 consecutive months or more.

For questions concerning this letter, please contact the CEB at (916) 654-1322.

Sincerely,

### ***Original Document Signed By:***

KIM JOHNSON  
Deputy Director  
Family Engagement and Empowerment Division

Attachments

## Attachment A

### Retroactively Applying the CalWORKs Discharge Policy Example

This example will provide guidance on how to apply the CalWORKs discharge policy effective July 1, 2019.

*Example:* A CalWORKs case consisting of a single father was discontinued from CalWORKs on June 30, 2015, with multiple open overpayment claims.

- **Claim #1:** Administrative error overpayment established October 1996 in the amount of \$50;
- **Claim #2:** Administrative error overpayment established August 2010 in the amount of \$200;
- **Claim #3:** Client error overpayment established March 2012 in the amount of \$300;
- **Claim #4:** Client error overpayment established February 2013 in the amount of \$500; and
- **Claim #5:** Client error overpayment established May 2015 in the amount of \$700 that was determined to have been caused by fraud.

It is now July 2019 and the case has been closed and the former client has not received aid under the CalWORKs program since the parent was discontinued in June 2015, a total of 48 consecutive months. Pursuant to SB 726, the CWD will act in the following manner:

- **Claim #1:** The CWD will continue to pursue collection efforts as AFDC overpayments cannot be discharged;
- **Claim #2:** The CWD will discharge this overpayment as the client has been off aid for over 36 consecutive months;
- **Claim #3:** The CWD will discharge this overpayment as the client has been off aid for over 36 consecutive months;
- **Claim #4:** The CWD will discharge this overpayment as the client has been off aid for over 36 consecutive months; and
- **Claim #5:** The CWD will not discharge this overpayment as the CalWORKs overpayment discharge process is only applicable to non-fraudulent overpayments. The CWD will continue to pursue collection efforts in accordance with MPP 44-352.4.

## Attachment B

### CalWORKs \$250 Overpayment Threshold and Discharge Example

This example will provide CWDs guidance on how the overpayment threshold and overpayment discharge policies will work together effective July 1, 2019.

*Example:* A CalWORKs case consisting of a single mother and two children is discontinued on March 31, 2020, with multiple open overpayment claims. The overpayment claims were established prior to the case being discontinued.

- **Claim #1:** Client error overpayment established July 2019 in the amount of \$200;
- **Claim #2:** Administrative error overpayment established August 2019 in the amount of \$300;
- **Claim #3:** Client error overpayment established September 2019 in the amount of \$100;
- **Claim #4 (referred to SIU):** Client error overpayment established October 2019 in the amount of \$200, and a SIU investigation was not yet able to determine if fraud was committed; and
- **Claim #5 (referred to SIU):** Client error overpayment established November 2019 in the amount of \$400, and a SIU investigation found fraud was committed.

The CWD will act on these overpayment claims in the following manner:

- **Claim #1:** While the case is still active, the CWD should collect on the overpayment through grant adjustment per MPP 44-352.4. However, once the case is closed and the adult is no longer receiving aid, the CWD will not pursue collection of the overpayment because it is under the overpayment threshold of \$250. The overpayment will be discharged once the case has been closed and the adult has been off aid for 36 consecutive months.
- **Claim #2:** The CWD will pursue collection as it exceeds the overpayment threshold. If the overpayment is being reduced through installments, the CWD will collect on the overpayment for 36 months, or until the outstanding balance falls under \$250, and discharge the remaining amount once closed and off aid for a total of 36 consecutive months.
- **Claim #3:** The CWD will not pursue collection of the overpayment because it is under the overpayment threshold of \$250. The overpayment will be discharged once the client is off aid for a total of 36 consecutive months.
- **Claim #4:** The CWD will not pursue collection on this overpayment as it is under the overpayment threshold but will not discharge the overpayment after the 36<sup>th</sup> month. The CWD will take proper action (start collecting or discharge) once the SIU's final determination has been made.
- **Claim #5:** The CWD will pursue collection on this overpayment as it exceeds the overpayment threshold and because the SIU found fraud was committed. The overpayment involves fraud and cannot be discharged even after the client has been off aid for 36 consecutive months or even if the overpayment falls under the overpayment threshold of \$250.



State of California  
Department of Social Services

Page 1 of 1  
Noa Msg Doc No.: TEMP W&I 11004i  
Action: Overpayment Discharge  
Title: Notice of Overpayment  
Discharge

Auto ID No.:  
Source :  
Issued by : ACL No.  
Reg Cite : 44-350, WIC 11004

Use Form No. : NA 290  
Original Date : 01-01-2019  
Revision Date : New

MESSAGE:

As of,       Date      , the County  
found that you,       (name)      , have  
been off CalWORKs cash aid for 36 months  
in a row.

As a result, the following CalWORKs  
overpayment claim(s) have been cancelled  
and you will no longer have to repay them:

Claim #1: From    (month/year)    to    (month/year)    =    \$(Total OP  
amount)     
Total amount of payments you have made =    \$(Amount Paid/Intercepted)     
Total amount of overpayment discharged:    \$(Amount of OP discharged)   

Claim #2: From    (month/year)    to    (month/year)    =    \$(Total OP  
amount)     
Total amount of payments you have made =    \$(Amount Paid/Intercepted)     
Total amount of overpayment discharged:    \$(Amount of OP discharged)   

Claim #3: From    (month/year)    to    (month/year)    =    \$(Total OP  
amount)     
Total amount of payments you have made =    \$(Amount Paid/Intercepted)     
Total amount of overpayment discharged:    \$(Amount of OP discharged)   

This notice does not change any other overpayments you may have that are not listed on this  
notice. You will get a separate notice about other overpayments if they change. If you have  
any questions about the overpayments in this notice, call the county you were last aided in.

INSTRUCTIONS: Use to notify of a cash aid overpayment discharge per WIC 11004. Enter the  
date of the action and the name of the responsible party. Specify the amount owed of each  
overpayment claim (if applicable). Specify the amount the County has collected through  
repayment agreement or tax intercept. Specify the remaining amount (if applicable) that will be  
discharged.