

November 12, 2019

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 19-102

[Senate Bill \(SB\) 80](#), signed by the Governor on June 27, 2019, affected the provisions of [SB 726](#) and the guidance issued in [All County Letter \(ACL\) 19-19](#). The Early Engagement & Eligibility Bureau is releasing this superseding letter to provide guidance to County Welfare Departments (CWDs) on [SB 726](#) and [SB 80](#) in lieu of releasing an erratum. Effective July 1, 2019, SB 726 and [SB 80](#):

- Increased the California Work Opportunity and Responsibility to Kids (CalWORKs) overpayment threshold for collection from \$35 to \$250;
- Introduced a new discharge policy for CalWORKs overpayments which will be implemented when the California Statewide Automated Welfare System (CalSAWS) is able to perform the automation necessary for implementation;
- Required CWDs to report a mass overpayment resulting from a major systemic error or negligence to the Department for possible discharge; and
- Prohibited CWDs from commencing civil or criminal action against any individual based on alleged unlawful application for or receipt of public social services if the case record was not made available to the individual.



KIM JOHNSON
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



GAVIN NEWSOM
GOVERNOR

November 12, 2019

ALL COUNTY LETTER (ACL) NO. 19-102

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) and SB 80 (CHAPTER 27, STATUTES OF 2019)

REFERENCE: [SENATE BILL \(SB\) 726 \(CHAPTER 930, STATUTES OF 2018\)](#) AND [SB 80 \(CHAPTER 27, STATUTES OF 2019\)](#); [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](#); [ALL COUNTY LETTER \(ACL\) 19-19](#).

The purpose of this ACL is to provide guidance to County Welfare Departments (CWDs) regarding implementation of [Senate Bill \(SB\) 726](#) (Chapter 930, Statutes of 2018), signed by the Governor on September 29, 2018, and [SB 80](#) (Chapter 27, Statutes of 2019), signed by the Governor on June 27, 2019. Effective July 1, 2019, [SB 726](#) increased the California Work Opportunity and Responsibility to Kids (CalWORKs) overpayment threshold for collection from \$35 to \$250, introduced a new discharge policy for CalWORKs overpayments, required CWDs to report a mass overpayment resulting from a major systemic error or negligence to the California Department of Social Services (CDSS) for possible discharge, and prohibited CWDs from commencing civil or criminal action against any individual based on alleged unlawful application for or receipt of public social services if the case record was not made available to the individual.

Furthermore, [SB 80](#) delayed the implementation effective date of the discharge provision in [SB 726](#) until the single California Statewide Automated Welfare System (CalSAWS) is able to perform the automation necessary for implementation.

This letter supersedes [ACL 19-19](#) released on February 21, 2019.

CalWORKs Overpayment Threshold

Policy Prior to July 1, 2019

Pursuant to the Manual of Policies and Procedures (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 payment or aid paid pending a state hearing. The [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. The [MPP 44-350.161\(a\)](#) instructs CWDs to maintain information regarding uncollected overpayments to enable recoupment should any liable adults from the prior overpaid Assistance Unit (AU) reapply for CalWORKs aid.

Policy as of July 1, 2019

Effective July 1, 2019, the CalWORKs overpayment threshold for collection on nonfraudulent claims was increased from \$35 to \$250 for closed cases. 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 CalWORKs cases. When the case is active, CWDs must pursue collection regardless of the amount in accordance with [MPP section 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 suspend 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 with a balance totaling \$249 or less from the liable individual(s) if they are no longer aided in California under the CalWORKs program. The \$250 threshold for collection applies to all closed CalWORKs cases with non-fraudulent overpayment claims, including non-fraudulent overpayment claims related to Welfare-to-Work (WTW) supportive services.

For newly closed cases, all CalWORKs overpayment claims totaling \$249 or less will be placed in a suspense status. For closed cases with a CalWORKs overpayment claim amount totaling \$250 or more, the county will follow the current procedures for recovering CalWORKs overpayments. However, the payment that causes the overpayment claim to fall below \$250 will be the last payment accepted, after which the remaining overpayment balance will be placed in a suspense status. Repayment will then begin on the next overpayment claim in the queue.

For example, there is a CalWORKs request for voluntary repayment of \$30 a month for an overpayment of \$900. After 21 payments, the balance is \$270. The next payment of \$30 is collected, which brings the balance to \$240. This is the last payment required and the claim will then be placed in suspense. If a 22nd payment is made on the remaining overpayment balance of \$240, this payment was made/collected in error and must be refunded.

CalWORKs Overpayment Discharge

New Policy

In addition to the higher CalWORKs overpayment threshold, [SB 726](#) introduced 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, the Welfare Intercept System, and the Franchise Tax Board Intercept System.

The CWDs shall deem a non-fraudulent CalWORKs overpayment uncollectible and discharge the overpayment if the individual(s) liable for the overpayment has not received aid in California under the CalWORKs program for 36 consecutive months or longer. In accordance with [SB 80](#), the discharge policy will be implemented when the single CalSAWS is able to perform the automation necessary for implementation and will be applicable to all closed CalWORKs cases with non-fraudulent overpayment claims, including non-fraudulent overpayment claims related to WTW supportive services. 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 voluntary 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 for collection, the CalWORKs overpayment discharge process applies to each CalWORKs overpayment claim, rather than the total overpayment figure resulting from multiple overpayment claims. When the overpayment has been discharged, CWDs shall notify all formerly liable individuals that they are no longer liable for the overpayment amount that has been discharged. Please see page eleven for the CalWORKs Notice of Overpayment Discharge NOA message.

In CalWORKs cases where there is more than one individual liable for the overpayment claim, the overpayment claim will not be discharged until the case has been closed and both liable individuals have been off aid for 36 consecutive months in California.

In addition, once automated in the single CalSAWS, 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 at least 36 consecutive months. 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 versus AFDC overpayments, and Attachment B for guidance on how to apply the discharge process and the overpayment threshold.

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. This means CWDs must suspend collection on overpayment claims under the \$250 CalWORKs collection threshold when an Intentional Program Violation (IPV) is not imposed. CWDs are reminded an IPV can only result from an administrative disqualification hearing (ADH), a signed administrative disqualification hearing waiver, criminal prosecution, or a signed disqualification consent agreement. 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 once the discharge provision is automated in CalSAWS.

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 liable individual(s) has been off aid for 36 consecutive months. In CalWORKs cases where there is more than one individual liable for the overpayment claim, the overpayment claim will not be discharged until the case

has been closed and both liable individuals have been off aid for 36 consecutive months in California.

- If an IPV is imposed on the overpayment, 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 36th 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 investigation is complete (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 collection 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 36th 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 liable individual(s) was off aid for 36 consecutive months. In CalWORKs cases where there is more than one individual liable for the overpayment claim, the overpayment claim will not be discharged until the case has been closed and both liable individuals have been off aid for 36 consecutive months in California.
- If the SIU investigation determines **fraud was committed and an IPV is ultimately imposed**, 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 36th month**, the CWD shall suspend collection efforts but not discharge the overpayment. The CWD will take the proper action once the investigation is complete (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. 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 Early Engagement and Eligibility Bureau (EE&EB) 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 on part of the CWD in the determination of eligibility for CalWORKs AUs;
or
2. A major systemic error by the state or CWD.

CDSS will further define the terms “negligence” and “major systemic error” in forthcoming regulations. Upon notification of the mass overpayment, the EE&EB will determine if these overpayments may be discharged.

Civil or Criminal Prosecution for CalWORKs Overpayments

Effective July 1, 2019, a civil or criminal action shall not be commenced against any individual based on alleged unlawful application for or receipt of public social services if the case record, or any consumer credit report used in the civil or criminal case for the purpose of determining the overpayment, has not been made available to the individual or has been destroyed after the required three-year retention period pursuant to Welfare and Institutions Code (WIC) section 10851. Therefore, CWDs are advised to retain the case files and consumer credit reports beyond the required retention period if there is an active investigation on a CalWORKs overpayment claim.

Other Programs Affected

The changes to the CalWORKs overpayment process pursuant to [SB 726](#) and [SB 80](#) 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.

CalWORKs Notice of Overpayment Discharge Notice of Action (NOA) Message

Per MPP section 22-071.1(d), CWDs are reminded to provide adequate notice to former clients regarding CalWORKs overpayments. The CDSS created a new NOA message to inform the liable individual(s) that the outstanding balance has been discharged after the case has been closed for at least 36 consecutive months. This NOA message will be used once the discharge functionality is fully automated in CalSAWS. Please see page eleven for the Notice of Overpayment Discharge NOA message.

CalWORKs Overpayment Threshold for Collection NOA Messages

In addition to the CalWORKs Notice of Overpayment Discharge NOA message, this letter introduces two new NOA messages pertaining to the CalWORKs overpayment collection threshold CWDs must utilize as soon as administratively possible:

1. The Suspension of Overpayment NOA message will be sent following case discontinuance to inform former recipients that any overpayment claims totaling \$249 or less will be placed in a suspense status; and
2. The Suspend Overpayment Recovery NOA message will be sent to former recipients who are making payments to inform them that they should no longer make additional payments because the overpayment balance is \$249 or less.

Please see pages twelve and thirteen for the two new overpayment collection threshold NOA messages.

If you have any questions concerning this letter, please contact the Early Engagement & Eligibility Bureau at (916) 654-1322. If you have any program integrity questions, please contact the Program Integrity Bureau at (916) 653-1826.

Sincerely,

Original Document Signed By:

JENNIFER HERNANDEZ
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 once automated in CalSAWS.

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.

The case has been closed and the former client has not received aid under the CalWORKs program for at least 36 consecutive months. Pursuant to [SB 726](#) and [SB 80](#), 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 section 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 once the discharge provision is automated in CalSAWS.

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 found to be an IPV.

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 section 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 placed in suspense status and collection activity will cease. When the discharge functionality is automated in CalSAWS, the remaining overpayment amount will be discharged if the case has remained closed and the liable adult has been off aid for a total of 36 consecutive months.
- **Claim #2:** The CWD will pursue collection as \$300 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. When the discharge functionality is automated in CalSAWS, the CWD will discharge the remaining amount once the case is closed and the liable adult is off aid for a total of 36 consecutive months.
- **Claim #3:** The CWD will not pursue collection of the overpayment because \$100 is under the overpayment threshold of \$250. When the discharge functionality is automated in CalSAWS, the overpayment will be discharged once the liable adult has been off aid for a total of 36 consecutive months.
- **Claim #4:** The CWD will not pursue collection on this overpayment as \$200 is under the overpayment threshold but will not discharge the overpayment after the 36th month. The CWD will take proper action (start collecting or discharge when automated) once the overpayment is determined to be nonfraudulent or an IPV.

- **Claim #5:** The CWD will pursue collection on this overpayment as \$400 exceeds the overpayment threshold and it has been found to be fraudulent. Since the overpayment is fraudulent, it cannot be discharged even after the liable adult has been off aid for 36 consecutive months, even if the overpayment falls under the overpayment threshold of \$250.

State of California
Department of Social Services

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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: 02-21-2019
Revision Date: 10-XX-2019

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
discharged and collection will stop on
these claims.

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

INSTRUCTIONS: Use to notify of a cash aid overpayment discharge per WIC 11004 once
automated in the single CalSAWS. Enter the date of the action and the name of the liable
party. Specify the amount for each overpayment claim. Specify the amount the county has
collected through repayment agreement or tax intercept. Specify the remaining amount (if
applicable) that will be discharged.

State of California
Department of Social Services

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Noa Msg Doc No.: M44-350M
Action: Overpayment Suspension
Title: Suspension of Overpayment

Auto ID No.:
Source :
Issued by : ACL No. 19-102
Reg Cite : WIC 11004

Use Form No. : NA 290
Original Date : 10-XX-2019
Revision Date : New

MESSAGE:

On, Date , your CalWORKs case was closed. The county will not collect on the following overpayment claims because they are under \$250:

Claim #1: From (month/year) to (month/year) = \$(Total OP amount)

Claim #2: From (month/year) to (month/year) = \$(Total OP amount)

Claim #3: From (month/year) to (month/year) = \$(Total OP amount)

If you come back on aid within the next 36 months, the county will start collection on these overpayment claims.

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 this notice, contact the county.

INSTRUCTIONS: Use to notify of a cash aid overpayment suspension per WIC 11004. Enter the date of the action. Specify the amount for each overpayment claim. Continue listing the sequence of overpayment claims as applicable. Inform the former client the county will resume collection of the overpayment if the individual becomes a CalWORKs recipient within the next 36 months.

State of California
Department of Social Services

Page 1 of 1
Noa Msg Doc No.: M44-350N
Action: Suspend overpayment
recovery for claims under the
threshold
Title: Suspend Overpayment
Recovery

Auto ID No.:
Source :
Issued by : ACL No. 19-102
Reg Cite : WIC 11004

Use Form No. : NA 290
Original Date : 10-XX-2019
Revision Date : New

MESSAGE:

As of, Date , you,
 (name) ,
should not make any more payments on
your CalWORKs overpayment (claim
number) because the balance is
now under \$250.

If you come back on aid within the next 36 months, the county will start collection on this overpayment claim.

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 this notice, contact the county.

INSTRUCTIONS: Use to notify of a cash aid overpayment suspension per WIC 11004 once the outstanding balance drops under \$250. Enter the date of the action and the name of the liable party. Enter the claim number of the overpayment that will be suspended. Inform the former client the county will resume collection of the overpayment if the individual becomes a CalWORKs recipient within the next 36 months.