

SEPTEMBER 8, 2022

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY WELFARE DIRECTORS LETTER

This letter provides guidance to County Welfare Departments (CWDs) working with participants in the CalFresh and California Work Opportunity and Responsibility to Kids (CalWORKs) Welfare-to-Work (WTW) programs who do not meet workplace or place of activity COVID-19 vaccination and testing requirements.



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GOVERNOR

SEPTEMBER 8, 2022

ALL COUNTY WELFARE DIRECTORS LETTER

TO: ALL COUNTY WELFARE DIRECTORS

FROM: JENNIFER HERNANDEZ, DEPUTY DIRECTOR
FAMILY ENGAGEMENT AND EMPOWERMENT DIVISION

SUBJECT: CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO
KIDS (CALWORKS) AND CALFRESH GUIDANCE FOR COUNTY
WELFARE DEPARTMENTS AS PERTAINS TO THE
CORONAVIRUS DISEASE VACCINATION FOR CALWORKS AND
CALFRESH RECIPIENTS

REFERENCE: [MANUAL OF POLICIES AND PROCEDURES \(MPP\) SECTION 42-713.1, MPP SECTION 42-713.21, MPP SECTION 42-721.31, MPP SECTION 42-721.314, MPP SECTION 42-721.4, and MPP SECTION 42-750.11; TITLE 7 OF THE CODE OF FEDERAL REGULATIONS \(CFR\) SECTION 273.7\(i\), 7 CFR SECTION 273.7\(i\)\(3\), 7 CFR SECTION 273.7\(h\)\(2\), 7 CFR SECTION 273.7\(h\), 7 CFR SECTION 273.7\(i\)\(3\)\(i\), 7 CFR SECTION 273.7\(h\)\(2\)\(v\), and 7 CFR SECTION 273.7\(i\)\(2\); TITLE 1 OF THE AMERICANS WITH DISABILITIES ACT \(ADA\); and TITLE VII OF THE CIVIL RIGHTS ACT; and THE UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICES COVID-19 VOLUNTARY QUIT AND GOOD CAUSE POLICY CLARIFICATION.](#)

This letter provides guidance to County Welfare Departments (CWDs) working with participants in the CalFresh and California Work Opportunity and Responsibility to Kids (CalWORKs) Welfare-to-Work (WTW) programs who do not meet workplace or place of activity COVID-19 vaccination and testing requirements.

BACKGROUND

California has instituted various measures to contain and reverse the rate of COVID-19 virus transmission within its populace, including social distancing, masking, testing, and vaccination requirements impacting public and private institutions and sectors of the economy. As a result, employers, educational institutions, and service providers have adopted COVID-19 remediation policies in accordance with state and local government guidelines, including testing and vaccination requirements. While multiple COVID-19 vaccines are now widely available, there are individuals who choose not to get vaccinated and/or tested, despite requirements of their employer, educational institution, or other place of activity. CWDs are encouraged to be flexible to accommodate a range of participant beliefs and health concerns as they relate to COVID-19 and COVID-19 vaccinations and testing requirements.

CALFRESH PROGRAM

The COVID-19 pandemic has resulted in changes to many workplaces, including the implementation of safety protocols or vaccination and testing requirements. These changes may have caused some CalFresh recipients to quit their jobs for a variety of reasons related to the COVID-19 pandemic. As a result, the Food and Nutrition Service (FNS) issued a memorandum [SNAP COVID-19 Voluntary Quit and Good Cause Policy Clarification on April 7, 2022](#), which provides general guidance on good cause determinations when CalFresh participants voluntarily quit a job due to COVID-19 safety measures or in response to an employer's vaccination requirement.

In these situations, the CWD must consider the facts on a case-by-case basis, including any information submitted by the employer and household member involved, in determining whether the circumstances fall under any of the potential good cause scenarios described in [Title 7 of the Code of Federal Regulations \(CFR\) Section 273.7\(i\)](#). CWDs may refer to:

- [7 CFR Section 273.7\(i\)\(3\)](#) and [7 CFR Section 273.7\(h\)\(2\)](#) for a good cause on voluntarily job quit due to insufficiency of COVID-19 safeguards, and
- [7 CFR Section 273.7\(h\)](#) and [7 CFR Section 273.7\(i\)](#) for a good cause voluntary quit in response to vaccination requirement.

INSUFFICIENT COVID-19 SAFEGUARDS

If an individual voluntarily quits a job citing concerns about the sufficiency of COVID-19 safeguards in the workplace, the CWD may evaluate the situation in light of [7 CFR Section 273.7\(i\)\(3\)](#) and [7 CFR Section 273.7\(h\)\(2\)](#), which provide that good cause includes circumstances when employment becomes unsuitable with respect to health and safety. Because COVID-19 is a communicable virus, it is also important that CWDs

consider an individual's concern for the safety of themselves, as well as their household members.

In deciding whether employment has become unsuitable with respect to health and safety, the CWD may rely on federal, State, or local laws and guidelines. CWDs are also encouraged to consider the Department of Labor Occupational Safety and Health Administration's (OSHA) recommendations for employers to mitigate the spread of COVID-19 in the workplace. OSHA's guidance contains important recommendations for mitigating the spread of COVID-19 in workplaces, including recommendations for facilitating worker vaccinations.

VOLUNTARY QUIT DUE TO VACCINATION REQUIREMENTS

If an individual voluntarily quits employment in response to a vaccination requirement (related to vaccination or testing), the CWD must evaluate the specific circumstances and determine whether good cause is met under [7 CFR Section 273.7\(h\)](#) and [7 CFR Section 273.7\(i\)](#). For example, if an employer did not offer an accommodation for an individual with a medical or religious reason for not complying with the vaccination requirement, the CWD should consider whether such circumstances warrant good cause under [7 CFR Section 273.7\(i\)\(3\)\(i\)](#) or [7 CFR Section 273.7\(h\)\(2\)\(v\)](#).

The CWD may also look to other good cause factors, such as whether the circumstances were beyond the individual's control as provided under [7 CFR Section 273.7\(i\)\(2\)](#). Such circumstances typically include, but are not limited to: illness, illness of another household member requiring the presence of the member, a household emergency, the unavailability of transportation, or the lack of adequate childcare for children who have reached age six but are under age 12.

CALWORKS PROGRAM

The CalWORKs program recommends that CWDs use the FNS [SNAP COVID-19 Voluntary Quit and Good Cause Policy Clarification](#) memorandum as a tool when navigating employment and WTW vaccination and testing concerns, to the extent that it aligns with the CalWORKs program. See below for further guidance on how to work with participants in the CalWORKs WTW program who do not meet workplace or place of activity COVID-19 vaccination and testing requirements.

VOLUNTARY QUIT OR TERMINATION DUE TO VACCINATION AND TESTING REQUIREMENTS

There may be instances where some CalWORKs participants are unwilling to fulfill the employer's (including Expanded Subsidized Employment employers) and/or program activity's (e.g., in-person education) vaccination and testing requirements, such as

refusing to be vaccinated, submit to frequent testing for infection, disclose their vaccination status, or show proof of vaccination. This may result in the participant quitting the employment or activity, or the employer or other activity administrator (e.g., educational institution) terminating the individual's employment or participation.

Counties may grant good cause for participants failing or refusing to comply with vaccination or testing requirements, including when it leads to the participant quitting or being terminated, until a new or alternate activity can be found ([MPP Section 42-713](#) and [MPP Section 42-721.31](#)). The CWDs should work with the participant to determine an alternate available activity that can accommodate the participant's choice not to be vaccinated and/or tested, such as remote work and educational opportunities.

VOLUNTARY QUIT DUE TO INSUFFICIENT COVID-19 SAFEGUARDS

There may be instances in which a CalWORKs participant voluntarily quits a job due to concerns about the sufficiency of COVID-19 safeguards in the workplace. Due to the highly transmittable nature of the COVID-19 virus, CWDs should consider the participant's concern for their health and safety and that of the people living in their household. As above, counties should consider the OSHA recommendations for mitigating the spread of COVID-19. In situations when the employer neither provides adequate COVID-19 safeguards nor accommodation to remedy the participant's concerns, the participant may have good cause to no longer participate in their employment activity based on worker protections that exist to ensure safe and healthy workplaces ([see MPP Section 42-721.314](#)).

The CWD should consider applicable federal, state, and local guidance and the facts provided by the participant and employer in determining whether circumstances qualify for good cause with respect to worker protections for a safe and healthy workplace. CWDs should make that determination based on [MPP Section 42-713.1](#) and [MPP Section 42-721.314](#). The CWD also has the option to reassign the participant to another activity that is consistent with their assessment and WTW plan, in lieu of providing good cause.

INABILITY TO VACCINATE OR TEST

There may be situations when the individual is willing to get vaccinated or tested as a condition to continue their employment, placement, or participation in their program activity, but fail to comply with this requirement due to external circumstances. For example, the individual may be unable to:

- Take time-off from work to get vaccinated or tested;
- Procure transportation to the vaccination or testing center;
- Secure an available vaccination or testing appointment, and/or;

- Communicate their desire to get vaccinated or tested to their employer due to language barriers.

If the situation is due to lack of supportive services, including transportation to the vaccination or testing site and/or child care, the county must provide the necessary service(s) to assist the individual in getting vaccinated or tested and continuing their employment or activity participation ([MPP Section 42-750.11](#)). If the CWD does not provide the necessary supportive service(s), the individual may request good cause for not participating.

ADDITIONAL RESOURCES

[Supplemental Nutrition Assistance Program \(SNAP\) – COVID-19 Voluntary Quit and Good Cause Policy Clarification](#) – Provides guidance how to determine whether an individual has good cause for not meeting SNAP work requirements in situations related to COVID-19 workplace safeguards and vaccination requirements.

[COVID-19 Workplace Safety/Vaccination and Testing Requirements](#) – Contains resources for employers to help employees get vaccinated and a link to an Employer Vaccination Toolkit.

[COVID-19 Guidance and Masking Requirements for all Counties](#) – Provides the latest COVID-19 information by county.

[Manual of Policies and Procedures \(MPP\) Section 40-105.4 Applicant and Recipient Responsibilities, Immunization Requirements](#) – Regulations regarding the requirement for all kids under 6 to be vaccinated unless exempt.

[CalWORKs Immunization Rules Form CW 101](#)

[ACL 20-36](#) – Describes county incentives, which may be used to encourage participants to get vaccinated against COVID-19.

CalWORKs and CalFresh COVID-19 [ACWDL dated March 13, 2020](#).

CalWORKs WTW COVID-19 [ACWDL dated July 29, 2021](#).

[What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws \(December 2021\)](#) – provides U.S. Equal Employment Opportunity Commission (EEOC) Technical Assistance Questions and Answers for Employers.

[OSHA's Workers' Rights and Protections](#) – Details workers' rights to refuse dangerous work under certain circumstances.

CONTACTS

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If you have any questions or need additional guidance regarding the information in this letter, please contact the following:

- CalWORKs Engagement Bureau at CWEngagementPolicy@dss.ca.gov.
- CalFresh at CalFreshPolicy@dss.ca.gov