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June 24, 2009

ERRATA

REASON FOR THIS TRANSMITTAL

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

ALL COUNTY LETTER NO. 09-05E

TO: ALL COUNTY WELFARE DIRECTORS
 ALL CalWORKs PROGRAM SPECIALISTS
 ALL FOOD STAMP COORDINATORS
 ALL COUNTY WELFARE-TO-WORK SPECIALISTS
 ALL MEDI-CAL PROGRAM SPECIALISTS
 ALL REFUGEE PROGRAM COORDINATORS
 ALL COUNTY CHILD CARE COORDINATORS
 ALL CONSORTIUM PROJECT MANAGERS

SUBJECT: CORRECTION TO ALL COUNTY LETTER (ACL) 09-05 (CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO KIDS (CalWORKs) INFORMATION REGARDING CALIFORNIA REGISTERED DOMESTIC PARTNERS (RDPs) AND SAME-SEX SPOUSES)

REFERENCE: ACL 09-05

The changes specified in this errata provide several revisions to ACL 09-05, dated February 27, 2009. The revisions were made to clarify that the date of the marriage, not the date a marriage license was issued, will determine whether the marriage is deemed valid for the purpose of CalWORKs eligibility determinations. This errata also clarifies that same-sex spouses are to be treated as stepparents unless they are the natural or adoptive parent of their partner's children. In addition, the language "pending judicial resolution" has been removed in order to reflect that the California Supreme Court recently made a decision to uphold Proposition 8. The revisions have been made in the attached document, and are italicized or struck through for your convenience. This attached document is intended to replace pages two and three of ACL 09-05.

All County Letter 09-05E
Page Two

If you have any questions regarding the content of this errata pertaining to CalWORKs Eligibility, please contact the CalWORKs Eligibility Bureau at (916) 654-1322. For questions regarding Welfare to Work, please contact the Employment Bureau at (916) 654-2137. For questions regarding Child Care, please contact the Child Care Programs Bureau at (916) 657-2144 or childcarequestions@dss.ca.gov.

Sincerely,

Original Document Signed By:

CHARR LEE METSKER
Deputy Director
Welfare to Work Division

Attachment

c: CSAC
CWDA

As a reminder, the regulatory changes that implement provisions of AB 205 were effective July 27, 2007 and are available on the California Department of Social Services (CDSS) web site at <http://www.dss.cahwnet.gov/ord/PG302.htm>. Attachment 1 contains a summary of the regulatory changes that were made as a result of AB 205.

Attachment 2 has examples of the use of aid code 3S when the Assistance Unit (AU) meets all eligibility requirements for CalWORKs and the RDP/same-sex spouse requests to be in the AU or opts out.

This letter also includes other administrative instructions and Attachment 3 provides sample budget calculations for these families in CalWORKs.

Eligibility of RDPs/Same-Sex Married Spouses to CalWORKs

AB 205 broadens the legal definition of RDPs to extend to RDPs the same rights and responsibilities that are granted and imposed upon civil marriages. The California RDP is an individual who has a declaration of domestic partnership registered with the California Secretary of State. AB 205 also extends these rights and responsibilities to a member of a legal union validly formed in another jurisdiction that is equivalent to a California RDP. For CalWORKs program purposes, RDPs have the same rights and responsibilities as stepparents of the children of their partners *if they are not the natural or adoptive parents of those children* and shall be treated as such for the purposes of determining eligibility and grant amount.

On May 15, 2008, the California Supreme Court, in the court case *In re Marriage Cases*, determined that it is impermissible under the California Constitution to limit marriage only to opposite-sex couples. However, voters passed Proposition 8 in November 2008, a constitutional amendment which states that "only marriage between a man and a woman is valid or recognized in California." The passage of Proposition 8 took effect on November 5, 2008. Subsequently, same-sex marriages are no longer allowed in California. In addition, Proposition 8 no longer allows California to recognize same-sex marriages that were entered into outside of California subsequent to that date. Currently, there are pending legal challenges to the implementation of Proposition 8. The Department will issue further policy instructions should any of the legal challenges to Proposition 8 affect CDSS policy.

~~Pending judicial resolution,~~ All same-sex *marriages that occurred in California* between June 16, 2008 (when the *In re Marriage Cases* became final) and November 4, 2008 are deemed to be valid on the basis of marriage for the purposes of CalWORKs eligibility. Massachusetts and Connecticut also permit same-sex marriages. Same-sex marriages that occurred in Massachusetts and Connecticut during that time period are also valid. ~~pending judicial resolution.~~ For CalWORKs program purposes, same-sex spouses shall be treated as stepparents *if they are not the natural or adoptive parents of the children of their partners*, and all the following rules included in this letter shall apply to same-sex couples who were *married* between June 16, 2008 and November 4, 2008.

Welfare to Work

The CalWORKs Welfare-to-Work (WTW) program requirements were not changed as a result of AB 205. If the RDP/same-sex spouse has not adopted the child(ren) *or is not the natural parent of the child(ren)*, he or she is treated as a stepparent and the family would be considered a single-parent AU with a 32-hour-per-week participation requirement. These hours may not be shared, but either adult can fulfill the work participation requirement. If both adults are non-disabled, and if the RDP/same-sex spouse has adopted the child(ren), the family is considered a two-parent AU with a 35-hour-per-week participation requirement. These hours may be shared between the two aided adults pursuant to Manual of Policies and Procedures (MPP) Section 42-711.421.

Child Care

Eligibility for CalWORKs Stage One child care services does not change as a result of AB 205. Eligibility requirements for Stage One are based on a client's participation in required WTW activities and the availability of care. Child care is considered available and the client is not eligible for subsidized child care when there is an able and available parent, legal guardian, or adult member of the AU in the home.

The same rules that are applied to stepparents in determining membership in the AU will be applied to RDPs/same-sex spouses who do not adopt the eligible child(ren) *or who are not the natural parents of the eligible children*. In these cases, the CalWORKs parent will have the option, as they do with stepparents, to include or exclude the RDP/same-sex spouse in the AU, which could impact the availability of child care in the home. If a RDP/same-sex spouse adopts the eligible child(ren), the RDP/same-sex spouse will be considered a parent and a member of the AU, so the same eligibility requirements for two-parent families will be applied.

Food Stamp

The Food Stamp Program eligibility and household concept does not change as a result of AU members being RDPs/same-sex spouses. Individuals who customarily purchase and prepare meals together continue to define a food stamp household. A "household" can be defined as one person who lives alone or a group of persons related or unrelated, who live together, provided that meals are purchased and prepared together. Categorical eligibility rules continue to require that households in which all members receive or are authorized to receive CalWORKs cash aid or General Assistance (GA) benefits are considered categorically eligible for food stamps.

Refugee Cash Assistance

Refugee Cash Assistance (RCA) program eligibility does not change as a result of AU members being RDPs/same-sex spouses. For eligibility purposes, the RCA program has the same requirements as CalWORKs. Individuals that have an immigration status