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July 16, 2010

ALL COUNTY LETTER NO.10-29

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 CaWORKs PROGRAM SPECIALISTS
ALL CONSORTIUM PROJECT MANAGERS

SUBJECT: CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO KIDS—FEDERAL DEFICIT REDUCTION ACT—IMPACT OF CHANGE IN CHILD SUPPORT UNASSIGNED ARREARS

REFERENCE: CHILD SUPPORT SERVICES (CSS) 09-14,
CHILD SUPPORT SERVICES INFORMATION NOTICE (CSSIN) LETTER 09-04

Background

The purpose of this All County Letter (ACL) is to provide clarification to county welfare departments (CWDs) regarding the changes to child support assignment of pre-assistance arrears resulting from the implementation of the Federal Deficit Reduction Act (FDRA) of 2005. The Department of Child Support Services (DCSS) issued policy letter CSS 09-14 on September 23, 2009 to convey information to local child support agencies (LCSA) concerning the FDRA changes. The FDRA changes do not require changes to California Work Opportunity And Responsibility To Kids (CaWORKs) regulations, policies or procedures regarding the requirement to assign support as a condition of eligibility for CaWORKs cash aid.

As a result of the FDRA, an aided family is no longer required to assign their pre-assistance child support arrears as a condition of eligibility for public assistance. Effective October 1, 2009, the FDRA limits the assignment of support rights to the amount of support that accrues during the period that a family receives assistance not to exceed the cumulative amount of the unreimbursed assistance pool (UAP). This change affects applicants applying on or after October 1, 2009 who are owed

child support arrearages that accumulated during a period when they were not receiving CalWORKs cash aid.

In accordance with Manual of Policies and Procedures (MPP) Section 82-506.1, assignment to the CWDs of all rights to current child/spousal support for the applicant/recipient or any other family member required to be in the assistance unit (AU) under MPP Section 82-820.3 continues to be a condition of eligibility for assistance for each CalWORKs applicant/recipient. Therefore, CWDs are to continue to obtain the CW 2.1 NA and CW 2.1 Q for assignment of support rights.

We strongly encourage CWDs to notify applicants and recipients that they may begin to receive Child Support payments in excess of the child support \$50 disregard, and that they need to report this income, if it exceeds the Income Reporting Threshold (IRT).

Treatment of Child Support (CS) Pre-assistance Arrears

Following the DCSS implementation of the FDRA mandated changes to assignment rules, all or a portion of a support collection received by DCSS may be disbursed to the family as payment against pre-assistance arrears. This is referred to as a "pass-on" of child/spousal support to the family. This change is not retroactive and payments collected and distributed to families prior to October 1, 2009 are not affected by the FDRA change to assignment rules.

In accordance with MPP 82-518.14, all excess and pass-on payments made to a family from child/spousal support collected in any month is considered available income in the month received by the CalWORKs AU. However, per Quarterly Reporting (QR) rules, changes in income must only be reported mid-quarter if the income exceeds the IRT. If the pass-on support payment was made mid-quarter and did not put the AU over the IRT, then the AU would not have to report this income until their next QR 7 was due. At that time the income would only count against their grant if it was reasonably expected to continue in the upcoming quarter.

MPP 44-314.31 provides the rules for determining whether income can be reasonably anticipated. This determination will require a case-by-case determination. Some absent parents may be under garnishment where the amount and frequency can be anticipated. However, in other situations, the payments may be infrequent and the recipient may be unable to anticipate receipt or amount of a pass-on or excess payment. If income cannot be reasonably anticipated it will not be counted in the AU's grant calculation.

Additionally, under MPP 42-209, nonrecurring lump sum payments such as tax intercepts or bank levies, which are not recurring regular income and usually

nonrecurring in regard to amount and/or source, are treated as property (resources) in the month of receipt and any subsequent months. Resources are only evaluated once per quarter. (Also see, MPP 44-101(I)). Note: A Maximum Family Grant child's child support payments are exempt as income and are treated as a resource (MPP 44-314.62).

Only support that is used to reimburse the UAP pool is used to untick months on the CalWORKs time limit clock. These reimbursement amounts are currently reported to CWDs by the LCSA. Any support payments passed on to the family would not be used against the UAP to pay back the grant and therefore cannot be used to untick months of aid.

Notification of CWDs of Pre-assistance Arrears Collection

According to DCSS, CWDs are notified via report CDM-220. This report provides CWDs with the amount of payment disbursements made to currently aided families. The goal of DCSS is to send the pass on payment information through the existing CWD consortia interface. However, there is no estimate as to when these changes might occur as this will require changes to the statewide Child Support Enforcement system as well as changes to the welfare automation systems. A workgroup comprised of county staff from the CalWORKs program, various consortia, and DCSS are currently working on developing a report to be used as an interim process until the interface can be updated to send this information automatically.

If you have questions regarding this ACL, please contact your CalWORKs county consultant or call the Employment and Eligibility Branch at (916) 657-2128.

Sincerely,

Original Document Signed By:

CHARR LEE METSKER
Deputy Director
Welfare to Work Division