



CDSS

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**DEPARTMENT OF SOCIAL SERVICES**

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February 2, 2011

ALL COUNTY LETTER NO. 11-13

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 CalWORKs PROGRAM SPECIALISTS  
ALL CALFRESH PROGRAM SPECIALISTS  
ALL CONSORTIUM PROJECT MANAGERS

SUBJECT: CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO KIDS (CalWORKs) PROGRAM AND CALFRESH: CHANGES IN THE TREATMENT OF FEDERAL TAX CREDITS AND REFUNDS IN THE CalWORKs AND CALFRESH PROGRAMS

REFERENCE: H.R. 4853, TAX RELIEF, UNEMPLOYMENT INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010, PUBLIC LAW 111-312; ALL COUNTY LETTERS 09-22 and 11-11; H. R. 1, AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) OF 2009, PUBLIC LAW 111-5; ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF) PROGRAM INSTRUCTION (DATED JANUARY 28, 2011); MANUAL OF POLICY AND PROCEDURES (MPP) SECTIONS 44-101(I)(QR)(1), 44-111.3(I), 44-111.61(I), 42-213.518, 63-501.1 AND 2, 63-501.3(m), 63-507(a)(9), AND 63-501.111.

The purpose of this All County Letter (ACL) is to provide instruction to county welfare departments (CWDs) regarding changes in the way federal tax credits and refunds will be treated in the CalWORKs and CalFresh Programs, as a result of passage of H.R. 4853, the Tax Relief Bill and federal guidance received from ACF (Temporary Assistance for Needy Families ACF PI 2011-01, dated January 28, 2011.) The major change for CWDs is that federal tax credits and refunds are to be disregarded as a resource for 12 months from the date of receipt.

**BACKGROUND**

H.R. 4853 amends the Internal Revenue Code of 1986 and was signed into law on December 17, 2010. This federal bill temporarily extends and modifies numerous tax relief measures. Two sections of this bill impact the CalWORKs and CalFresh programs: Section 728 simplifies and standardizes rules regarding how tax credits and

refunds such as the Earned Income Tax Credit (EITC), Child Tax Credit (CTC), Making Work Pay Credit (MWPC) and excess withholding (federal tax refunds) are treated in determining eligibility for public benefit programs; and Section 103 extends the 2009 ARRA enhancements to the EITC and CTC that were set to expire after tax year 2010.

### **SECTION 728 – TREATMENT OF FEDERAL REFUNDS IN FEDERAL PROGRAMS AND FEDERALLY-ASSISTED PROGRAMS**

Section 728 of the bill adds Section 6409 to the Internal Revenue Code which temporarily disregards any federal tax refund payments from consideration in the administration of any federally-funded or partially federally-funded program through tax year 2012. Specifically, this section states:

- Any federal tax refund (including, but not limited to, over-withheld income tax, EITC, CTC, MWPC, or other tax credits) must be excluded as income in determining eligibility or the amount of benefits for any federally-funded or partially federally-funded public benefit program.
- Tax refunds or credits that are saved will not count against resource limits for 12 calendar months after the refund is received (for both applicants and recipients) for purposes of determining eligibility or the amount of benefits under any federally-funded or partially federally funded public benefit program.
- This amendment applies to tax refund or credit amounts received after December 31, 2009. For purposes of determining eligibility for aid on or after December 17, 2010, any payments received after December 31, 2009 should be considered exempt for income, and should not be counted as a resource for 12 months from the date received. The law is not retroactive; therefore CWDs are not required to seek out and review denied or discontinued cases to reassess prior eligibility determinations.
- This provision expires for any tax refund or credit amounts received after December 31, 2012.

### **Current CalWORKs Program Rules Regarding Tax Credits and Refunds**

**EITC payments:** In accordance with Quarterly Reporting rules at MPP Section 44-316.324, recipients are required to report (within 10 days) receipt of income that exceeds their Assistance Unit's (AU's) Income Reporting Threshold. However, regulations at MPP Section 44-111.61(l) currently exempt EITC payments from consideration as income in determining CalWORKs eligibility or benefit levels. These payments are considered nonrecurring lump sum payments and shall be treated as property in the month of receipt and any subsequent months. To the extent these

payments are saved, they are exempt for purposes of resource determination in the month received and the following month per MPP Section 42-213.518. Beyond this period, if the recipient's resources exceed the resource limits established at MPP Sections 42-207.1 and 63-5011.1, CWDs are required to discontinue aid at the end of the quarter in which resources exceed the limit.

**MWPC payments:** Per ARRA (Public Law 111-5, Section 1001(c)), MWPC payments are exempt from consideration as income or resources for the month of receipt and the following two months. Beyond the exemption period, any funds retained are considered as resources per MPP Section 44-101(I)(QR)(1).

**Income tax refund payments:** Regulations at MPP Sections 44-111.3(I) and 63-501.1 and .2 currently require that income tax refunds be treated as non-recurring lump sum payments and counted as resources in the month received. (Refer to description of current treatment of lump sum income in the EITC paragraph on page two of this ACL.)

**CHANGE:** Effective December 17, 2010, counties must exempt all federal income tax credit and refund payments from resource consideration for CalWORKs applicants and recipients for 12 calendar months starting with the month of receipt of the payment. Although H.R. 4853 specifies that these payments are to be excluded as income, because they are currently excluded as income in the CalWORKs program, there is no change to existing practice.

### **Current CalFresh Program Rules Regarding Tax Credits and Refunds**

**EITC payments:** MPP Sections 63-501.3(m) and 63-507(9) currently require that EITC payments be excluded as income and resources for 12 months, if the CalFresh household (HH) was participating in the CalFresh (or Food Stamp Program) at the time of receipt.

**CHANGE:** Effective December 17, 2010, CWDs must exempt all EITC payments as income and resources for 12 calendar months, regardless of whether the HH had been participating in the CalFresh or Food Stamp Programs at the time of receipt.

**MWPC payments:** Per ARRA (Public Law 111-5, Section 1001(c)), MWPC payments are exempt from consideration as income or resources for the month of receipt and the following two months. Beyond the exemption period, saved funds are counted as resources.

**CHANGE:** Effective December 17, 2010, CWDs must exempt all MWPC payments as income and resources for 12 calendar months, regardless of

whether the HH had been participating in the CalFresh or Food Stamp Programs at the time of receipt.

**Federal income tax refund payments:** MPP Section 63-501.111 currently states that these payments must be treated as non-recurring lump sum payments which are counted as resources in the month received.

**CHANGE:** Effective December 17, 2010, counties must exempt all federal income tax credit and refund payments from resource consideration for CalFresh applicants and recipients for 12 calendar months starting with the month of receipt of the payment. As with CalWORKs, the new federal law does not change current CalFresh rules regarding how these payments should be treated for income consideration purposes.

### **CalFresh Reminder**

Pursuant to ACL 11-11, issued on January 27, 2011, CWDs are reminded that as of February 1, 2011, Modified Categorical Eligibility has been expanded to all non-assistance CalFresh recipients, and therefore these HHs are not subject to asset limitation requirements.

### **CalWORKs and CalFresh**

As of December 17, 2010, an application or request for eligibility to be restored (after being discontinued) or re-evaluated (after being denied) shall not be denied or rejected on the basis of the AU/HH having assets above a resource limit unless the AU/HH has been asked whether anyone in the unit has received a tax refund in the last 12 months and those refunds have been properly disregarded. In addition, no overpayment/overissuance may be established as of December 17, 2010 for excess resources, unless the CWD has asked the AU/HH if the resources included a tax refund or credit and those monies have been properly disregarded.

### **Client Notification**

While the changes to the treatment of tax refunds and credits may not significantly impact benefit level calculations for a large number of CalWORKs and CalFresh recipients, the changes will allow most recipients to save more of their funds without becoming ineligible for benefits due to excess resources. CWDs are strongly encouraged to inform recipients that they will be able to retain these tax refunds and credits for 12 months without penalty so they do not have to "spend down" their savings in order to stay below CalWORKs and CalFresh resource levels and maintain eligibility.

Clients should also be encouraged to save the extra cash for emergencies or to help them meet future financial needs, and CWDs can also use this opportunity to remind clients about the benefits of restricted accounts.

**SECTION 103 – 2009 AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) EXTENSION**

Section 103 temporarily extends the 2009 ARRA expansions to the EITC and CTC to tax year 2012. These enhancements included a temporary increase in the EITC for taxpayers with three or more qualifying children, increased the maximum credit receivable, and increased the beginning point of the phase-out range for the credit for all married couples filing a joint return. These changes were to expire after the 2010 tax year, but have been extended through the 2012 tax year by this law. No changes to CalWORKs or CalFresh processes are necessary to comply with this provision of the law.

**CONTACTS**

If you have any questions or need additional information regarding this ACL, please contact your CalWORKs or CalFresh county consultant; or call the CalWORKs Eligibility Bureau at (916) 654-1322 or Tracy Ahlenstorf of the CalFresh Policy Bureau at (916) 657-3283.

Sincerely,

***Original Document Signed By:***

CHARR LEE METSKER  
Deputy Director  
Welfare to Work Division

c: CSAC