



CDSS

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DEPARTMENT OF SOCIAL SERVICES

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REASON FOR THIS TRANSMITTAL

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

June 10, 2013

ALL COUNTY LETTER NO. 13-46

TO: ALL COUNTY WELFARE DIRECTORS
ALL CALWORKS PROGRAM SPECIALISTS
ALL CALFRESH COORDINATORS
ALL CONSORTIUM PROJECT MANAGERS

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

REFERENCE: H.R. 8, AMERICAN TAXPAYER RELIEF ACT OF 2012, PUBLIC LAW (PL) 112-240; H.R. 4853, TAX RELIEF, UNEMPLOYMENT INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010, PL 111-312; ALL COUNTY LETTERS (ACLs) 11-11, 11-13, 11-13E, 12-62 AND 13-32; H.R. 1, AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) OF 2009, PL 111-5; MANUAL OF POLICY AND PROCEDURES (MPP) SECTIONS 44-01(l)(QR)(1), 44-111.3(l), 44-111.61(l), 42-213.518, 44-316.324, 63-501.1 AND 2, 63-501.3(m), 63-507(a)(9), AND 63-501.111.

The purpose of this 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 the American Taxpayer Relief Act of 2012 (PL 112-240). There are two major changes for CWDs: federal tax credits and refunds received on or after January 1, 2013, shall be permanently excluded as income when determining eligibility and benefit amount in the CalWORKs and CalFresh programs; and these tax credits and refunds shall also be disregarded as a resource for 12 months from the date of receipt.

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (PL 111-312) excluded federal tax refunds as income and as resources for a period of 12 months after receipt for all federal means-tested programs. These provisions were set to

expire on December 31, 2012. On January 2, 2013, the American Taxpayer Relief Act of 2012 was signed into law, containing a provision that made these tax exclusions permanent and amended the Internal Revenue Code of 1986. Additionally, Section 103 of the American Taxpayer Relief Act of 2012 extends the 2009 ARRA enhancements to the Earned Income Tax Credit (EITC) and Child Tax Credit (CTC) that were to expire after the 2012 tax year. The CDSS is in the process of developing regulations to implement this law change. Until implementing regulations are released, this ACL is the implementing directive.

SECTION 6409 of the INTERNAL REVENUE CODE - TREATMENT OF FEDERAL REFUNDS IN FEDERAL PROGRAMS AND FEDERALLY-ASSISTED PROGRAMS

Section 6409 of the Internal Revenue Code permanently disregards any federal tax refund payments from consideration in the administration of any federally-funded or partially federally-funded program. Specifically, this section states:

- Any federal tax refund (including, but not limited to, over-withheld income tax, EITC, CTC, 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, 2012. For purposes of determining eligibility for aid after December 31, 2012, any payments received on or after January 1, 2013, shall be considered exempt as income and shall not be counted as a resource for 12 months from the date received.

If a CWD becomes aware of any cases in which tax credits and refunds were incorrectly treated as income or a resource when determining eligibility for an applicant or when calculating a cash grant for a recipient, the CWD must take corrective action to re-evaluate the eligibility and recalculate prior cash grants excluding the tax credit and refund payment. In cases that indicate an underpayment has occurred, or an applicant was denied due to a tax credit or refund payment, the CWD shall restore any aid that the applicant or recipient was entitled to, after offsetting any existing overpayments for the case.

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 (IRT). However, MPP Section 44-111.61(l) currently exempts EITC payments from consideration as income in determining CalWORKs eligibility or grant levels. These payments are considered non-recurring lump sum payments and shall be treated as property in the month of receipt and in 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 in MPP Section 42-207.1, CWDs are required to discontinue aid at the end of the quarter in which resources exceed the limit, unless spent down prior to discontinuance date. *The new tax laws have no impact on this, and the current rules will continue to apply.*

Income tax refund payments: Current regulations at MPP Section 44-111.3(l) require income tax refunds to be treated as non-recurring lump sum payments and counted as resources in the month received. The ACL 11-13 instructs CWDs to disregard tax refunds and credits as a resource for 12 months from the date of receipt with an exemption expiration date of December 31, 2012. This exemption has been continued, permanently. For treatment of the refund, refer to the description of current treatment of lump sum income in the EITC paragraph of this letter.

Change: The PL 112-240 specifies these payments are to be permanently excluded as income when determining eligibility and grant amounts. Effective January 1, 2013, counties must exempt all EITC payments and 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.

Current CalFresh Program Rules Regarding Tax Credits and Refunds

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

Federal income tax refund payments: Current regulations at MPP Section 63-501.111 state these payments must be treated as non-recurring lump sum payments, which are counted as resources in the month received.

Change: Effective January 1, 2013, CWDs must exempt all EITC payments and 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 also permanently excludes these credits and refunds as income when determining eligibility and benefit amount in the CalFresh program.

CalFresh Reminder

The CWDs are reminded that as of February 1, 2011, having Modified Categorical Eligibility (MCE) status conferred on a CalFresh HH exempts all resources in the determination of eligibility, should the HH meet all other CalFresh eligibility requirements (see ACLs 11-11, 12-62, and 13-32).

CalWORKs and CalFresh

After December 31, 2012, 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 CWDs have identified and appropriately disregarded any tax credits or refunds received after December 31, 2012. In addition, no overpayment or overissuance may be established after December 31, 2012, for excess resources, unless the CWD has verified if the AU/HH resources included a tax refund or credit and those monies have been properly disregarded. Also, as a reminder, if the HH had been conferred MCE status at the time of issuance, all resources are exempt from the determination of eligibility for CalFresh benefits (see ACLs 11-11, 12-62, and 13-32).

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. The CWDs are strongly encouraged to inform recipients 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 to stay below CalWORKs and CalFresh resource limits 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 use this opportunity to remind clients about the benefits of restricted accounts.

SECTION 103 of the AMERICAN TAXPAYER RELIEF ACT OF 2012 - EXTENSION

Section 103 of the American Taxpayer Relief Act of 2012 temporarily extends the 2009 ARRA expansions to the EITC and CTC through the 2017 tax year. 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 scheduled to expire after the 2012 tax year, but have been extended through the 2017 tax year by this law. No changes to CalWORKs or CalFresh processes are necessary to comply with this provision of the law.

REFUGEE CASH ASSISTANCE (RCA), ENTRANT CASH ASSISTANCE (ECA), AND TRAFFICKING AND CRIME VICTIMS ASSISTANCE PROGRAMS (TCVAP)

The program rules regarding federal tax credits and refunds as described in this letter shall also apply to RCA, ECA, and TCVAP (cash assistance and CalWORKs) applicants and recipients, since cash aid payments under these programs are based on CalWORKs amounts.

This ACL and other CDSS Letters and Notices are available on the internet at:
<http://www.dss.cahwnet.gov/lettersnotices/default.htm>.

CONTACTS

If you have questions or need additional information regarding this ACL, please contact the following CDSS representatives:

- CalWORKs Eligibility County Consultant (916) 654-1322
- CalFresh County Consultant (916) 645-1896
- Refugee Programs Bureau (916) 654-4356

Sincerely,

Original Document Signed By:

TODD R. BLAND
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Welfare to Work Division