

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, California 95814



August 19, 2003

ALL COUNTY LETTER NO. 03-38

TO: ALL COUNTY WELFARE DIRECTORS  
 ALL CalWORKS PROGRAM SPECIALISTS  
 ALL FOOD STAMP COORDINATORS  
 ALL REFUGEE COORDINATORS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: RETROACTIVE COST OF LIVING ADJUSTMENT (COLA)  
 INCREASE TO THE CalWORKs MINIMUM BASIC STANDARD  
 OF ADEQUATE CARE (MBSAC) LEVELS

REFERENCE: WELFARE & INSTITUTIONS CODE (W & I) SECTION 11453  
 AND ALL COUNTY LETTER (ACL) 03-26

The purpose of this ACL is to issue instructions for the implementation of retroactive MBSAC levels. W & I Code Section 11453 required a 2002-2003 MBSAC COLA adjustment effective on October 1, 2002. The 2002-2003 MBSAC COLA was initially thought to have been suspended along with the COLA for the CalWORKs grant payments. However, upon further review, it has been determined that the MBSAC COLA for this period had not been suspended. Therefore, instructions to implement this COLA were not issued until the Maximum Aid Payment COLA implementation procedures were sent to counties via ACL 03-26. The California Department Social Services (CDSS) has initiated steps to locate and reimburse those potential recipients whose eligibility may have been affected by the delay in the MBSAC adjustment. The request period for retroactive benefits will begin with a statewide mailing of informing notices in August 2003. Since ACL 03-26 implemented the correct MBSAC levels as of June 16, 2003, the request period for retroactive benefits covers October 1, 2002, thru July 2003.

INFORMING NOTICE

CDSS has developed an informing notice TEMP 2216 which will be mailed to all current Medi-Cal recipients by the Department of Health Services in August 2003. The informing notice asks potential recipients 1) if they applied for aid during the period October 1, 2002, through July 2003, and 2) was the California Work Opportunity and Responsibility to Kids (CalWORKs) application denied due to income. If the potential recipient answers "yes" to both questions, the notice instructs them to contact the County Welfare Department (CWD) where they were denied CalWORKs cash aid due to excess income. It is the potential recipient's responsibility to contact the CWD.

Counties are not required to mail the informing notice to CalWORKs recipients nor are counties required to do any type of manual case search to identify potential recipients. CDSS will issue a poster for counties to place in conspicuous locations viewable by recipients in all CWDs and food stamp outlets. The poster is to remain posted for a three month minimum period.

## REQUEST PROCESS

If a potential recipient believes they were income eligible during the time the MBSAC was not at the appropriate level, they are required to contact the county to receive a request form. It is the potential recipient's responsibility to submit a request form to each county in which they believe they were erroneously denied aid due to excess income. However, CWDs should assist the potential recipients in identifying the county to which their request form should be mailed. A copy of a recommended request form is provided as an attachment to this ACL. Counties are allowed to develop their own request form as long as it contains this information.

The county is to issue a request form immediately to anyone who requests it in person. If the request is made by mail, counties should attempt to mail the request form within 5 days of receipt of the request. The CWDs will have 30 days from the receipt of the request form to ask for any additional necessary information and 30 days after the receipt of a completed request form (including any such additional necessary information) to approve or deny a request.

As mandated in W & I Code Section 10851, CWDs are required to keep records, including denied applications, for a three year period. Therefore, when a potential recipient requests a review of their "original application" concerning this subject, counties are to review and research all available and relevant records to validate the request.

However, if documentation relating to income eligibility requirements has been lost or is no longer in the county's possession, the county is to re-take the application and look at the initial application for income eligibility. If the potential recipient has the supporting documentation available for the "original application" period, it should be submitted along with the new application. However, if the potential recipient no longer has any supporting documentation, a statement from the recipient explaining that they were unable to locate documentation along with the new application is sufficient to grant aid unless the CWD has contrary evidence. If a county has evidence that the declaration is inaccurate, the CWD is to deny their request. If the county believes better information is available to the potential recipient, the CWD can request that information.

## ELIGIBILITY OF SUBSEQUENT MONTHS

The CWDs is to use the request form as the potential recipient's request for review of eligibility for subsequent months. Although the potential recipient's request form is approved, it only establishes eligibility for the previously denied initial month of application. To establish eligibility for any subsequent month following the approval of the "original" application, the recipient will be required to provide the necessary

information and documentation for each individual subsequent month. However, if the potential recipient's "original application" is re-evaluated and still denied due to excess income, the county is not to establish eligibility for any subsequent months.

The CWD is to use the standard CW 7/SAWS 7 as the method to document and approve each individual subsequent month. It is the recipient's responsibility to provide the county with the relevant and necessary information needed to determine eligibility for all subsequent months to which the recipient believes they were eligible for. The recipient will have 45 days in which to provide the appropriate documentation to the county for the establishment of eligibility for the subsequent months.

### CALCULATION OF RETROACTIVE BENEFITS

The amount of the retroactive and corrective underpayment is equivalent to the amount of CalWORKs benefits to which the potential recipient would have been entitled to had the correct MBSAC levels been applied beginning October 1, 2002.

If it is determined that a potential recipient had been inappropriately denied CalWORKs benefits due to their income exceeding the lower MBSAC levels, the county shall approve the "former" application and follow the standard recipient process including applying all appropriate income disregards and eligibility factors. The county is to then reconstruct on a monthly basis, the appropriate aid payments using all existing income and eligibility factors **only** if the potential recipient had not been receiving CalWORKs during October 1, 2002 to the date the respective CWD implemented ACL 03-26.

Example:

A family of three applies for CalWORKs in November 2002. The applicants were denied aid due to the fact that their income exceeded CalWORKs MBSAC levels. In March 2003, the family reapplies for aid and is approved. The family is currently receiving CalWORKs. In August 2003, the family requests that their original application from November 2002 be reviewed. After reviewing the request, the county determines that the November 2002 application was inappropriately denied and should have been approved with the correct MBSAC levels. The county calculates what the aid payment should have been for November 2002. Then the county reviews income and eligibility factors provided by the recipient for the months of December 2002 to February 2003 and determines that eligibility existed for those additional months. Retroactive benefits are issued to the recipient for the months of November 2002 to February 2003.

Example:

A family of three applies for CalWORKs in October 2002. The applicants were denied aid due to the fact that their income exceeded CalWORKs MBSAC levels. The family never reapplied for aid. In August 2003, the family requests that their original application from October 2002 be reviewed. After reviewing the request, the county determines that the October 2002 application was

inappropriately denied and should have been approved with the correct MBSAC levels. The county calculates what the aid payment should have been for October 2002. Then the county reviews income and eligibility factors provided by the recipient for the months of December 2002 to August 2003 and determines that eligibility only exists for December and January. Retroactive benefits are issued to the recipient for the months of October 2002 to January 2003.

### CalWORKs RETROACTIVE BENEFITS

In accordance with Manual of Policies and Procedures (MPP) Section 44-340.6, CalWORKs corrective underpayments are not to be considered income in the month received nor considered a resource the following month for purposes of determining continued eligibility and aid payments. Additionally, MPP Section 44-351.3 requires that CalWORKs underpayments are to be balanced against existing CalWORKs overpayments.

Any aid a recipient received for a month, even a retroactive lump sum payment, shall be counted against both the recipient's TANF and CalWORKs 60-month time limit.

### FOOD STAMPS

Retroactive lump sum payments from the CalWORKs program are counted as a resource in the month received in accordance with MPP 63-501.111.

### FISCAL CLAIMING INSTRUCTIONS

Any approved underpayments are to be reported on the appropriate assistance claim form as a prior month supplemental payroll.

### FORMS AND NOTICES

The following attachments are provided in this ACL:

MBSAC Levels Charts (Attachment 1A and 1B)  
Informing Notice (TEMP 2216)  
Request Form (TEMP 2217)  
Request Form Denial NOA  
Underpayment NOA  
Poster

The Notices of Action will be produced in English, Spanish, Vietnamese, Chinese and Russian.

## CONTACTS

If you have any questions regarding CalWORKs MBSAC increases or CalWORKs underpayments, please contact Eden-Marie Eulingborough at (916) 653-4992. For questions regarding CalWORKs forms and notices, please contact Shawn Bradley at (916) 653-8675. For questions regarding treatment of the underpayments in the Food Stamp Budget, you may contact Rosemary Akhidenor at (916) 654-2116. For questions regarding fiscal claiming should be addressed to your Fiscal Policy Bureau at (916) 654-3440.

Sincerely,  
***Original document signed by***  
***Bruce Wagstaff***  
***August 19, 2003***  
BRUCE WAGSTAFF  
Deputy Director  
Welfare to Work Division

c: CWDA  
CSAC

Attachments