

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



September 16, 1998

ALL-COUNTY LETTER NO. 98-72

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY WELFARE FRAUD
INVESTIGATORS
ALL COUNTY CALWORKS PROGRAM
SPECIALISTS

REASON FOR THIS TRANSMITTAL

- ☒ [X] State Law Change
- ☐ [] Federal Law or Regulation Change
- ☐ [] Court Order or Settlement Agreement
- ☒ [X] Clarification Requested by One or More Counties
- ☐ [] Initiated by CDSS

SUBJECT: FRAUD PENALTY PROVISIONS - CALIFORNIA WORK OPPORTUNITY
AND RESPONSIBILITY TO KIDS (CalWORKs) PROGRAM

REFERENCE: ASSEMBLY BILL (AB) 1542, (CHAPTER 270, STATUTES OF 1997),
ACL 97-69

The purpose of this letter is to provide additional instructions to County Welfare Departments (CWDs) on implementing the fraud penalty provisions established by AB 1542 (Chapter 270, Statutes of 1997). A description of the changes to the fraud penalty periods was provided in ACL 97-69, dated October 29, 1997. Attached are the Notices of Action which should be used to notify applicants/recipients who are subject to the CalWORKs fraud penalties. The regulations implementing the new fraud penalties have been filed with the Secretary of State on an emergency basis with an effective date of July 1, 1998. The amended regulations will be distributed under a separate manual letter.

BACKGROUND

AB 1542 amended Welfare and Institutions Code Section 11486 to modify the existing Aid to Families with Dependent Children fraud penalties. The new CalWORKs fraud penalties became effective January 1, 1998. However, implementation of the fraud penalty provisions of AB 1542 also resulted in a number of program policy changes in handling cases that include an individual who is determined to have committed an Intentional Program Violation (IPV).

Prior to January 1, 1998, individuals who were found guilty of an IPV were sanctioned. A sanction required that the individual be discontinued from cash aid for a specified period of time. The needs of the sanctioned individual were not considered when computing the cash aid payment for the Assistance Unit (AU) because that individual was excluded from the AU due to a sanction. This person was no longer automatically eligible for cash-linked Medi-Cal and was not required to participate in the Greater Avenues for Independence (GAIN) program.

TREATMENT OF PERSONS SUBJECT TO FRAUD PENALTIES

Effective January 1, 1998, the CalWORKs program has adopted a new method of penalizing individuals who fail to cooperate with certain program requirements. As of July 1, 1998, this new method shall also be used to disqualify individuals who are convicted of an IPV regardless of when the IPV was committed. The new method requires that the individual remain in the AU; however, his/her needs will not be considered in the "Family" Maximum Aid Payment (MAP) or AU MAP when determining the AU's financial eligibility and grant levels. As an AU member, the individual will continue to receive cash-linked Medi-Cal, is required to participate in welfare-to-work activities unless exempt and will have time on aid counted toward the 60-month time limit. In addition, all income of that individual will be used in the AU's eligibility and grant determination, and all appropriate income disregards shall be allowed. The needs of the penalized person shall be restored the first of the month following the end of the penalty period. No new application is required since the person has remained an AU member throughout the penalty period. Counties are reminded that although all individuals convicted after July 1, 1998 of an IPV will now serve a penalty instead of a sanction, the time frames for applying the fraud penalty shall be determined by when the IPV was committed.

Counties are not to apply this new method of IPV disqualification for cases with conviction dates prior to July 1, 1998. Counties are also reminded that any individuals who are currently serving a sanction that was imposed prior to July 1, 1998 will require vendor/voucher payments as mandated in Welfare and Institutions Code Section 11453.2. The imposition of vendor/voucher payments is required by revised regulations which are effective July 1, 1998.

If the AU or individual responsible for the IPV goes off aid prior to imposing or during the penalty period, the penalty is suspended until the individual is found eligible for cash aid by joining another AU or reapplying at a later time. When the individual's fraud penalty period ends, the needs of that individual are again included in both the "Family" MAP and AU MAP beginning the first of the month following the end of the penalty period. For purposes of imposing the Food Stamp penalties, the court's ruling in the Garcia court case applies, i.e., the penalty period begins immediately following the determination that a Food Stamp IPV exists, and the penalty period is not suspended even when the individual is not receiving Food Stamp benefits.

FRAUD PENALTY PERIOD

Effective January 1, 1998, the fraud penalty provisions imposing the new time frames will be applied to all applicants/recipients who commit a CalWORKs IPV act on or after January 1, 1998. In response to inquiries from counties, only individuals who commit welfare-related fraud to become eligible for CalWORKs or to increase the AU's aid payment are subject to the CalWORKs fraud penalties. An applicant/recipient is subject to the new fraud penalty time frames when that individual commits a CalWORKs IPV and a determination is made by a state or federal court, or pursuant to an Administrative Disqualification Hearing, including any determination made on the basis of a plea of guilty or nolo contendere. This

means a fraud determination can be based on any of the following: a court conviction, a finding of fact resulting from an Administrative Disqualification Hearing, a Disqualification Consent Agreement, or a Deferred Adjudication.

Fraud committed prior to January 1, 1998, even if the individual is convicted after January 1, 1998, is subject to the fraud penalty time frames in effect at the time the IPV was committed. In addition, an individual who is serving a fraud penalty under the old penalty time frames continues to serve the old penalty unless he/she commits a new violation after January 1, 1998. If a fraudulent act is committed over a period of time which begins prior to January 1, 1998, but extends beyond January 1, 1998, the new time frames for fraud penalties imposed by AB 1542 apply.

Some of the new fraud penalty periods are based on the number of times the individual commits an IPV act. All fraud penalties imposed for IPVs committed before January 1, 1998 are counted when determining which fraud penalty period should be applied to an IPV committed after January 1, 1998. For example, the individual had previously been convicted twice for making false statements in order to receive a higher cash aid payment. If that individual is found to have provided false statements after January 1, 1998, then the individual is subject to the new fraud penalty based on a third IPV, i.e., the individual is subject to a permanent penalty.

NOTICES OF ACTION (NOAs)

The fraud penalty NOAs have been revised to conform with changes required by AB 1542. These NOAs are provided in Attachment A. Counties that have provided the Language Services Bureau (LSB) with a county contact and specified languages needed (Spanish, Cambodian, Chinese, Vietnamese, and Russian) will automatically be sent those languages as soon as they become available. To be added to their mailing list, contact the LSB at (916) 654-1282 or CALNET 464-1282. Please specify the languages needed and the name of your Forms Coordinator.

Any questions regarding this letter may be directed to Lesley Bell of the Fraud Bureau at (916) 445-0031 for fraud penalty periods or to Cora Myers at (916) 654-2236 for the treatment of IPV penalties related to CalWORKs eligibility and grant determinations.

Sincerely,

***Original Document Signed By
Bruce Wagstaff on 9/16/98***

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

Enclosure

ATTACHMENT 1

APPLICATION OF FRAUD PENALTIES/SANCTIONS

When deciding what time frames or methods of disqualification to apply, the county must first determine two things: 1) when the fraudulent act was committed, and 2) when the individual was convicted or found guilty of fraud.

- 1) The date fraud was committed (date of overpayment) determines which fraud penalty time frames to apply, pre-1/1/98 time frames or post-1/1/98 time frames.
- 2) The date of conviction or finding of fraud determines which method of disqualification to apply.

Date(s) Fraud Committed	Date of Conviction/Finding of Fraud	Old (Pre-1/1/98) or New (Post-1/1/98) Fraud Penalty Time Frames	Penalty or Sanction (Method of Disqualification)**
1/97 to 4/97	12/15/97	old	sanction
4/97 to 9/97	1/31/98	old	sanction
1/97 to 10/97	7/1/98	old	penalty
2/98 to 4/98	6/1/98	new	sanction
2/98 to 4/98	7/1/98	new	penalty
1/97 to 1/98	6/1/98	new*	sanction
6/97 to 3/98	7/1/98	new*	penalty

*Fraudulent acts which begin prior to 1/1/98 but extend beyond 1/1/98 are subject to the new fraud penalty time frames.

**See "Treatment of Persons Subject to Fraud Penalties" on page 2 of this ACL.

ATTACHMENT 2

POST 1/1/98 FRAUD PENALTY TIME FRAMES

Permanent penalty for:

- ◆ individuals found in state or federal court, or pursuant to an administrative hearing decision, who have committed any of the following acts:
 - made fraudulent statements or representation regarding their place of residence, in order to receive assistance simultaneously, from two or more states or counties,
 - submitted false documents for nonexistent or ineligible children,
 - received cash benefits in excess of \$10,000 through fraudulent means; or
- ◆ individuals convicted of felony fraud, in a state or federal court, for theft of \$5,000 or more; or
- ◆ individuals with a third conviction of fraud in a state or federal court, or pursuant to an administrative hearing decision; or
- ◆ individuals found in state or federal court, pursuant to an administrative hearing decision, who have committed upon **the third occasion** any of the following acts:
 - having submitted more than one application for the same type of aid for the same period of time, for the purpose of receiving more than one grant of aid, in order to establish or maintain the family's eligibility for aid, or increasing, or preventing a reduction in the amount of that aid.

Five-year penalty for:

- ◆ individuals convicted of felony fraud in a state or federal court, not meeting permanent penalty criteria and the theft is more than \$2,000 but less than \$5,000.

Four-year penalty for:

- ◆ individuals found in state or federal court, or pursuant to an administrative hearing decision, who have committed upon **the second occasion** any of the following acts:
 - having submitted more than one application for the same type of aid for the same period of time, for the purpose of receiving more than one grant of aid in order to establish or maintain the family's eligibility for aid, or increasing, or preventing a reduction in the amount of the aid.

Two-year penalty for:

- ◆ individuals convicted of felony fraud in a state or federal court, not meeting permanent penalty criteria and the theft is less than \$2,000; or
- ◆ individuals found in state or federal court, or pursuant to an administrative hearing decision, who have committed upon **the first occasion** any of the following acts:
 - having submitted more than one application for the same type of aid, for the same period of time, for the purpose of receiving more than one grant of aid in order to establish or maintain the family's eligibility for aid, or increasing, or preventing a reduction in the amount of that aid.

Twelve-month penalty for:

- ◆ individuals found in state or federal court, or pursuant to an administrative hearing decision, who have committed upon **the second occasion** any of the following acts:
 - making a false or misleading statement or misrepresenting, concealing, or withholding facts;
 - committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

Six-month penalty for:

- ◆ individuals found in state or federal court, or pursuant to an administrative hearing decision, who have committed upon **the first occasion** any of the following acts:
 - making a false or misleading statement or misrepresenting, concealing, or withholding facts;
 - committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

ATTACHMENT 3

PRE-1/1/98 FRAUD PENALTY TIME FRAMES

Individuals found to have committed an IPV either through an administrative disqualification hearing or by a court of appropriate jurisdiction are ineligible for cash aid benefits as follows:

- ◆ Six months for the first violation.
- ◆ Twelve months for the second violation.
- ◆ Permanently for the third violation.

Individuals found to have committed and IPV either through an administrative disqualification hearing or by a court of appropriate jurisdiction, based on:

- submitting more than one application for the same period of time and for the purpose of receiving more than one grant of aid; or
- submitting documents for nonexistent children; or
- submitting false documents for the purpose of showing ineligible children to be eligible for aid

are ineligible for aid as follows:

- ◆ Two years for the first violation
- ◆ Four years for the second violation
- ◆ Permanently for the third violation

NOA MESSAGES

Action	Type	Revision	NOA #
Approval	IPV Penalty	Obsolete: Use M20-353D	M20-353A
Approval	Fraud Penalty	Modified language on how the penalty is applied to the person. (i.e., not counting needs vs. ineligible)	M20-353D
Deny	IPV Penalty	Obsolete: Use M20-353E	M20-353B
Change	IPV Penalty	Obsolete: Use M20-353C	M20-353
Change	Fraud Penalty	Modified language on how the penalty is applied to the person. (i.e., not counting needs vs. ineligible) and added new penalty language.	M20-353C
Other	Fraud Penalty	Modified language on how the penalty is applied to the person. (i.e., not counting needs vs. ineligible) Changed action from “Deny” to “Other.”	M20-353E

Action	Type	New	NOA#
Change	Fraud Penalty	Adds the person’s needs back in when the penalty period has ended.	M20-353F

Auto ID No.:
Source :
Issued by :
Reg Cite : 20-353.2; 40-173.1; 44-315;
44-317

Use Form No. : NA 200
Original Date : 10-04-95
Revision Date : 06-01-98

MESSAGE:

As of_____, the County is changing your
cash aid from \$_____to \$_____.

Here's why:

The needs of_____, were not counted
in figuring the amount of your cash aid.
This person's fraud penalty period is for
_____, while the family is being aided and
he/she is living with the family.

This person:

- [] gave us wrong facts about where he/she
lived in order to receive cash aid from
two or more states or counties.
- [] gave us wrong facts for an ineligible
child or for a child that does not
exist.
- [] received cash aid of \$_____ or more
because of welfare fraud.
- [] was found/pled guilty in a court of law
of felony welfare fraud of \$_____ or
more.
- [] was found/pled guilty of welfare fraud
three times in a court of law or
administrative hearing.
- [] gave us wrong facts or did not report
all facts.
- [] filed more than one application for cash
aid for the same period of time.
- [] He/she may get cash aid when the fraud
penalty period ends.

Your new cash aid is figured on this page.

INSTRUCTIONS: Use to change cash aid when the needs are not considered for
an AU member due to a fraud penalty. Fill in the date of the action and
specify the old and new cash aid amounts. Fill in the name for whom needs
are not included and the penalty period. Check the appropriate penalty box.
Check the last box if the person's penalty will eventually expire.

This message replaces M20-353C dated 10-04-95. file: pkian/MSERIES/20353c

Auto ID No.:
Source :
Issued by :
Reg Cite : 20-353.2; 40-173.1; 44-315;
44-317

Use Form No. : NA 200
Original Date : 10-04-95
Revision Date : 06-01-98

MESSAGE:

The County has approved your cash aid and Medi-Cal.

Your first day of cash aid is _____. Your first month's cash aid amount is \$_____.

_____ 's needs were not counted in figuring the amount of your cash aid.

Here's why:

His/her fraud penalty period has not ended.

[] He/she may get cash aid when the penalty period ends.

Your cash aid is figured on this page.

INSTRUCTIONS: Use to approve cash aid for an AU in which one of its members is disqualified due to a fraud penalty.

Fill in the first day of cash aid and the first month's cash aid amount. Fill in the name for whom needs are not considered. Check the next box if the person has a fraud penalty period which will eventually expire.

This message replaces M20-353D dated 10-04-95.

file: pkian/MSERIES/20353d

State of California
Department of Social Services

Noa Msg Doc No.: M20-353E Page 1 of 1
Action : Other
Issue: Fraud Penalty
Title: Penalty Applied to AU

Auto ID No.:
Source :
Issued by :
Reg Cite : 20-353.2; 40-173.1;

Use Form No. : NA 290
Original Date : 10-04-95
Revision Date : 06-01-98

MESSAGE:

The County has received your application for cash aid dated_____. You will not get a cash aid payment, but you are eligible for Medi-Cal.

Here's why:

Your fraud penalty period has not ended.

[] You may get cash aid when your penalty period has ended.

INSTRUCTIONS: Use to deny payment of cash aid only.

Fill in the application date. Check the box if the person has a penalty period which will eventually expire.

This message replaces M20-353E dated 10-04-95.

file: pkian/MSERIES/20353e

State of California
Department of Social Services

Noa Msg Doc No.: M20-353F Page 1 of 1
Action : Change
Issue: Fraud Penalty
Title: Penalty Stops

Auto ID No.:
Source :
Issued by :
Reg Cite : 20-353.2

Use Form No. : NA 200
Original Date : 06-01-98, New
Revision Date :

MESSAGE:

As of_____, the County is changing your cash
aid from \$_____to \$_____.

Here's why:

_____'s fraud penalty period has ended.

His/her's needs are now counted in figuring the
amount of your cash aid.

Your new cash aid amount is figured on this
page.

INSTRUCTIONS: Use to change cash aid when the person's fraud penalty period
has ended.

Fill in the date of the action and specify the old and new cash aid
amounts. Fill in the name for whom needs are now included in the cash aid
computation.

file: pkian/MSERIES/20353f