

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



March 11, 1997

ALL COUNTY LETTER 97-14

TO: ALL COUNTY WELFARE DIRECTORS

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: IMPLEMENTATION OF AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) REGULATIONS PACKAGE #0995-33 PERTAINING TO TIME LIMITS FOR TEMPORARY ABSENCE

REFERENCE: PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

The purpose of this letter is to provide copies of proposed regulations and instructions to implement time limitations for temporary absences from the home in the AFDC program. These changes are to be effective May 1, 1997.

Consistent with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193), the new regulations impose time limits which are not less than 30 days and not more than 180 days on temporary absences from the home. The new regulations provide that a time limitation of one full calendar month shall be imposed unless the absence meets a qualified exception which would permit the absence to exceed the full calendar month limit. A summary of the specific policy changes pertaining to the new time limitation requirement and the exceptions is attached as a cover sheet with the enclosed regulations.

We have not identified a need to change or develop any Notices of Action or forms regarding the change in policy at this time.

If you have questions, please contact Julie Lopes at (916) 654-1786 (CALNET prefix 454).

Sincerely,

A handwritten signature in cursive script that reads "Bruce Wagstaff".

BRUCE WAGSTAFF
Deputy Director
Welfare Programs Division

Attachment

ATTACHMENT

SUMMARY OF CHANGES

- o **Care and Control:** The guidelines for evaluating whether the caretaker relative has care and control of a child during a temporary absence remains in effect. The new regulations differ from the previous regulations in that a child may no longer be absent from the home for a period of more than one full calendar month unless the absence meets an exception.
- o **Joint Custody:** In joint custody situations, children who alternate living arrangements for a period of more than one full calendar month can no longer be considered temporarily absent from the home of the caretaker who does not have the child.
- o **Exceptions for Absences Exceeding a Full Calendar Month:** The current policy regarding temporary absences of children in public hospitals for up to two full calendar months, rather than one, will continue to apply as mandated by Welfare and Institutions Code Section 11269. Other temporary absences due to hospitalization will continue to be evaluated based on care and control factors without regard to any specific time limitation. Additionally, temporary absences due to other special circumstances may qualify as an exception to the full calendar month limit. These include situations where: (1) the absence is due to employment, (2) the absence is necessary to attend an educational or vocational training school or to attend a school which meets a special need for a child, or (3) the absence is due to a child being in a group home as a result of a crisis situation.
- o **Correctional Facility:** The full calendar month limit does not affect persons with inmate status. The current policy which precludes an absence from being considered temporary if a person is an inmate on the first of the month and expected to remain in the facility throughout the month, remains in effect. If this situation occurs, the incarcerated person would be ineligible as of the first of the month rather than waiting for the duration of a full calendar month.

Amend Section 82-808 to read:

82-808 CARETAKER RELATIVES REQUIREMENTS

82-808

RAFT

- .4 Alternating Arrangement (Continued)
- .41 Less Than One Month (Continued)
- .411 through .414 (Continued)

.42 One Full Calendar Month or More

When a child stays alternately for periods of one full calendar month or more with different persons who are not living together, the caretaker relative shall be determined as follows: the person with whom the child is staying at the time. That person will have to apply for aid on behalf of the child.

~~.421 One Applicant~~

~~The person who applies for aid and meets the requirements of a caretaker relative, or~~

~~.422 More Than One Applicant~~

~~When more than one person applies for aid and could meet the requirements of a caretaker relative, the caretaker relative shall be the person with whom the child stays on the first of each month for which aid is provided.~~

HANDBOOK BEGINS HERE

See Section 82-812.5 for definition of one full calendar month

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: ~~45 CFR 233.109(a)(1), (a)(1)(iv), and 45 CFR 206.10 (a)(8), 45 CFR 233.90(c)(1)(v)(B), and Section 11269, Welfare and Institutions Code; and 42 USC 408(a)(10).~~

Amend Section 82-812 to read:

82-812 TEMPORARY ABSENCE

82-812

- .1 Who Can Be Temporarily Absent
- .2 Living With the Caretaker Relative
- .3 Care and Control

(Continued)

(Continued)

For the child to be considered temporarily absent, the caretaker relative shall continue to exercise responsibility for care and control of the child (see Section 82-808.3).

- .4 ~~Time Limitation~~

~~There is no specific time limitation for determining whether an absence is temporary or permanent except as provided under Exceptions to Temporary Absence in this section.~~

- .54 Determining Factors

(Continued)

- .541 Temporary Absence

(Continued)

- .5411 Actual Situation

(Continued)

- .5412 Decision Making

(Continued)

- .5413 Ability to Return

(Continued)

- .5414 Intent to Return

(Continued)

- .5415 Paying Costs

(Continued)

- ~~.52 Exceptions to Temporary Absence~~

~~Temporary absence does not exist when the person is considered to be permanently absent. Permanent Absence includes but is not limited to:~~

- ~~.521 Continued Absence~~

~~If the person is not in the home because of a factor that would result in continued absence.~~

- ~~.522 Institution~~

~~If the person is an inmate in an institution on the first of the month where he/she is expected to remain through the month.~~

DRAFT

~~.523 Child in
Public Hospital~~

~~If a child on the first of the month is in a public hospital for two full calendar months, irrespective of the day on which he/she entered the public hospital.~~

.5 One Full Calendar
Month Time Limit

Any member of the AU shall be considered temporarily absent when absent from the home for one full calendar month or less.

.51 One Full Calendar
Month

For the purpose of this section, one full calendar month shall be from the first of the month through the last day of the month.

(a)

If the individual has been absent for the entire month of February, but less than 30 days, the calendar month will not be deemed completed until the individual has been absent for 30 days.

DRAFT

HANDBOOK BEGINS HERE

.52 Examples

(a)

On February 2nd, a member of the AU leaves the home to visit an uncle in Nevada and returns on March 16th. The person was not gone for one full calendar month and would be considered temporarily absent.

(b)

On April 16th, a member of the AU leaves home because of a death in the family. The person does not return until June 3rd. The person was gone more than one full calendar month and was not eligible for aid in June.

(c)

In a non-leap year an individual leaves the home on February 1. The individual is not considered permanently absent until March 3, after 30 days away from the home.

HANDBOOK ENDS HERE

.6 Exceptions to One Full
Calendar Month Time
Limitation

Exceptions include:

.61 Correctional Facility

A person confined in a correctional facility on the first of any month and expected to remain for one full calendar month or more shall be considered permanently absent.

.62 Child in a Public
Hospital

A child in a public hospital shall be considered temporarily absent for up to two full calendar months.

- .63 Hospitalization A person hospitalized, other than a child in a public hospital, may be considered temporarily absent for the duration of the hospital stay.
- .631 For the purpose of this section, hospitalization includes a stay in a medical hospital, psychiatric care facility, or drug and/or alcohol rehabilitation treatment facility.
- .64 Employment A person absent from the home due to employment may be considered temporarily absent for the duration of the employment/job activity.
- .65 Attending Educational or Vocational Training School A person absent from the home due to attendance at an institution of high learning, an educational school leading to a high school diploma or equivalent, or a vocational school leading to employment, may be considered temporarily absent for the duration of the schooling or training when there is no educational or vocational school within the vicinity of the person's home that provides the education or vocational training.
- .66 Child with Special Needs A child who attends a school which meets the special needs of the child shall be considered temporarily absent for the duration of the schooling when:
- .661 The child has a current Individualized Education Plan (IEP); and no school that meets the child's needs, as described in the IEP, is located close enough to the child's home that the child can continue to live at home while attending school.
- .67 Child in a Group Home A child who is in a licensed group home due to a crisis situation (i.e., hospitalization or incapacity of the parent, parents receiving respite services to maintain family stability, etc.) shall be considered temporarily absent for the duration of the crisis when:
- .671 The licensed group home does not receive AFDC-FC for the child, and the caretaker relative continues to have care and control concerning any major health and welfare decisions.
- .67 Documentation of Temporary Absence The county shall document the factors on which the determination of temporary absence was based the basis for the temporary absence.

~~HANDBOOK BEGINS HERE~~

~~.7 Examples of Temporary Absence~~

~~Temporary absence may include, but is not limited to:~~

~~.71~~

~~Hospitalization.~~

~~.72~~

~~Attendance at school or training. For example:~~

~~A child attends Job Corps training out-of-state. The caretaker relative retains responsibility for care and control of the child.~~

~~.73~~

~~Visiting or vacationing. For example:~~

~~A child goes to visit the father for the summer. The caretaker mother retains responsibility for care and control of the child and is consulted concerning the child's discipline, schooling, health, or medical needs, etc.~~

~~.74~~

~~Moving.~~

~~.75~~

~~Trips in connection with current or prospective employment, or~~

~~.76~~

~~Staying in a group home. For example:~~

~~A child is in a group home from Monday through Friday and resides with the mother on weekends. The group home does not receive AFDC-FC for the child. The mother is consulted concerning any emergency situations and any major health and welfare decisions concerning the child and has care and control of the child. Therefore, the mother remains the caretaker relative.~~

~~.8 Example of Exception to Temporary Absence.~~

~~Temporary absence does not exist when:~~

~~.81~~

~~A child goes to live with the father for the summer. The father has complete physical and legal custody of the child for three months. The mother is no longer involved in making decisions concerning the child's well-being. The mother cannot require that the child be returned to her home. The mother is not the caretaker relative in this situation.~~

~~HANDBOOK ENDS HERE~~

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: ~~45 CFR 233.10(a)(1), (a)(1)(iv), and 45 CFR 206.10(a)(8), 45 CFR 233.90(c)(1)(v)(B), and Section 11269, Welfare and Institutions Code;~~ and 42 USC 408(a)(10).

DRAFT