DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814

June 9, 1998

ALL COUNTY LETTER NO. 98-37

TO: ALL COUNTY WELFARE DIRECTORS
ALL CalWORKs PROGRAM SPECIALISTS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: QUESTIONS AND ANSWERS ON THE IMPLEMENTATION OF CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO KIDS (CalWORKs) PROGRAM

REFERENCE: AB 1542, Chapter 270, Statutes of 1997

The purpose of this letter is to transmit the attached series of questions and answers pertaining to the implementation of CalWORKs, which became effective January 1, 1998. The listing consists of the most frequently asked questions received from the counties since implementation. The questions and answers were developed in consultation with the CWDA CalWORKs Technical Review Team. For ease of reference, the questions and answers have been grouped in order of the subject matter.

CONTACTS

If you have any additional questions regarding the implementation of CalWORKs, please contact the staff listed below.

CHILD SUPPORT PENALTY

1. **Can you apply the 25% penalty to an Assistance Unit (AU) even if the parent is not aided (e.g., undocumented alien parent, welfare-to-work sanctioned parent)?**

   Yes. If the parent who fails to cooperate with the District Attorney (DA) is not aided, you can penalize the AU. If the parent of the child for whom aid is sought is found to have not cooperated without good cause, the family grant shall be reduced by 25 percent for such time that the failure to cooperate exists.

2. **How are multiple instances of non-cooperation handled? For example, an AU consists of one mother and two children, each with a different absent father. The mother fails to cooperate in establishing paternity for any of the children. Is a penalty applied for each instance of non-cooperation or is one single penalty applied for the AU?**

   When only one parent/caretaker relative fails to cooperate with the DA, it is considered one instance of non-cooperation, regardless of the number of children she/he has. The 25% penalty is applied only once in this case (WIC Section 11477.02).

3. **An AU consists of a senior mother, her child who is a minor teen parent, and the child of the minor teen. Both the senior mother and the minor teen parent fail to cooperate with the DA regarding the absent parents of their respective children. Is the non-cooperation of both the senior and minor teen parent considered as one or two instances of non-cooperation? How is the penalty applied?**

   Since there are two different individuals who are not cooperating for two different children, there are two instances of non-cooperation. The penalty would be applied sequentially. First apply one 25% penalty; then reduce the remainder of the computed grant by another 25% for the second failure to cooperate. Each time there is a different custodial parent or caretaker relative with a separate child within an AU who fails to cooperate with the DA the 25% penalty must be applied (WIC Section 11477.02).

4. **Can there be a double penalty applied? For example, could a person be "sanctioned" (removed from the AU) for refusing to assign support rights and also have the 25% penalty applied to the family grant for failure to cooperate with the DA for paternity establishment?**

   Yes. A parent/caretaker relative could be sanctioned (removed from the AU) for refusing to assign support rights or failing to participate in the welfare-to-work

program and have the family grant reduced by 25% for failing to cooperate with the DA (WIC Sections 11477 and 11477.02).

5. WIC Section 11201(b) indicates that the principal earner (PE) must have worked not more than 100 hours in the preceding four weeks. How is the county to determine the four-week period?

Count back four weeks from the date of application or the date of the transfer from another basis of deprivation to U-Parent deprivation. Do not count the date of application or transfer. The four-week period must end the day prior to the date of eligibility based on unemployment. If the first four-week period does not contain less than 100 hours worked, continue to move both the four-week period and the date of eligibility forward by day, until there are less than 100 hours worked during the new four-week period.

For example, an applicant PE was laid off on April 13 and worked a total of 40 hours in April and 40 hours per week in March. The family applied for aid on April 14. The original four-week period would be from March 16 through April 13. Since the PE worked 120 hours during this four-week period, a new four-week period would need to be identified.

March 16 through April 13 = 120 hours
March 17 through April 14 = 112 hours
March 18 through April 15 = 104 hours
March 19 through April 16 = 96 hours

The first four-week period in which the PE worked less than 100 hours would be from March 19 through April 16. U-Parent deprivation is established effective April 17. The beginning date of aid for this family would begin April 17, if otherwise eligible.

6. When deprivation changes to Unemployment for a recipient family, and the PE is working in excess of 100 hours, would the family continue to be eligible under the 100-hour rule exemption for recipients?

No, when the deprivation changes to unemployment, the family is treated as an applicant family and must meet the “not worked more than 100-hours in the preceding four-weeks” rule (WIC Section 11201[b]).

7. In ACL 97-65, on page 4, the last bullet states that a recipient *child* may continue to receive aid regardless of the number of hours the PE works. Does this apply only to the child, or to the recipient parents as well?

The entire recipient AU is eligible for aid regardless of the number of hours the PE works, provided the family does not exceed the recipient net income limit (WIC Section 11201 [c]).

DIVERSION

8. What is the beginning date of aid for individuals who receive diversion but reapply for aid before the end of the diversion period?

If the individual opts for diversion, the CalWORKs cash application is denied at the time the diversion payment is authorized. When the individual returns and reapplies for CalWORKs within the diversion period, the existing MPP Section 44-317 governing the beginning date of aid for new applications applies to the new request for aid (WIC 11266.5[d]).

9. If a diversion recipient reapplies for CalWORKs within the diversion period, and elects to repay the diversion through grant adjustment, would the county allow the reduction as a deduction for Food Stamp purposes?

In instances where the family reapplies for aid and begins receiving benefits within the diversion period, and the recipient elects to repay the diversion payment, the regulations prohibiting increased food stamp benefits do not apply. Recoupment of a diversion payment is not viewed as a failure by the individual to perform a required action (WIC Section 11266.5[g] and FS Manual Section 63.407.21).

10. Would a supplement be issued to an applicant who returns within the diversion period, but who did not receive diversion assistance in an amount equal to a full month's maximum aid payment (MAP)?

No. When an individual reapplies after receiving diversion, but within the diversion period, a new request for aid is made. The applicant must repay the diversion assistance received, excluding a partial month of aid, or allow the county to count the number of months in the diversion period, excluding partial months of aid, towards the 60-month time limit (WIC Section 11266.5[f]).

11. Can the county collect the diversion payment back using the 5 percent or 10 percent overpayment collection method?

State law allows the county to determine the repayment period. There is nothing in the law, therefore, which would require or prohibit use of the existing overpayment recoupment methods (WIC Section 11266.5[f]).

12. Is the applicant's income deducted when determining the amount of diversion services to be provided?

Counties have flexibility in developing a diversion program to meet the needs of a diverse population. Income is used to determine whether the family meets the gross and net income tests for apparent eligibility. The law does not specify that the family's income is to be deducted when determining the amount of diversion

assistance. Any child support payments received by the applicant or recovered by the county cannot be used to offset the diversion payment (WIC Section 11266.5).

13. Can a county design their diversion program to be a loan program?

The CalWORKs diversion program cannot be a loan program. To establish diversion as a loan program would violate WIC Section 11266.5[f], which allows diversion recipients a choice as to whether they want to repay the diversion payment or count the diversion period against the time limits. There is no Federal or State authority which would allow counties to require repayment of diversion except when the diversion recipient reapplies for CalWORKs within the diversion period and the individual chooses to repay the diversion payment by grant recoupment.

GRANT STRUCTURE/INCOME

Income

14. Does the disability-based unearned income disregard apply when children receive this income as a result of a parent's disability?

Yes, the disregard is a family disregard. It applies to any family member's income that is from the specific disability income sources identified in ACL 97-59. The disregard is limited to the following disability benefits: State Disability Insurance (SDI) benefits, private disability insurance benefits, Temporary Workers' Compensation (TWC) benefits, Temporary Disability Indemnity (TDI) benefits, and social security disability insurance benefits (WIC Section 11451.5[a][1]).

15. If two members of the family receive disability-based unearned income, does each member receive the $225 disregard?

No. The $225 is a family disregard that is applied once to the total family income (WIC Section 11451.5 and ACL 97-59).

16. If a client chooses the 40% self-employment option, does the client need to submit actual business expenses to receive the deduction?

No. In lieu of submitting verified actual expenses, the 40% is applied as a standard business expense deduction from the gross self-employment income (WIC Section 11155.3[c]).

17. How do we treat self-employment income in the applicant net income test? Do we allow the choice of 40% or actual expenses for an applicant? If so, is this deducted before or after the $90 disregard?

Applicants have the choice of using 40% or actual business expenses in determining self-employment income to be used in the eligibility and grant computations. This deduction is applied prior to disregarding $90 for the applicant net income test (WIC Section 11155.3[c]).

18. How do the new grant structure rules affect the student (income) exemption and the Job Training Partnership Act (JTPA) exemption? Does the student exemption apply to Non-AU members? How is the exemption applied for purposes of the 185 Percent Gross Income test?

The student exemption and JTPA exemption continue to apply. The exemption of earned income of a dependent child who meets student requirements or who has earnings derived from participation in JTPA is applied to both AU and Non-AU dependent children. The Department has taken the position that the 185 Percent Gross Income Limit test is unnecessary under the new grant structure financial eligibility test (MPP Sections 44-111.2 and 44-111.3[c] and ACL 97-59).

19. Earnings derived from college work study were exempt pursuant to MPP 44-111.25. Does this exemption still apply under CalWORKs?

Yes. The definition of income in place on August 21, 1996, is the definition of income used for the CalWORKs program (WIC 11157[b]).

20. How do you treat income and needs of the following individuals who are sanctioned, penalized or excluded by law? Please clarify also when we would consider these individuals to be AU or non-AU members.

- **Individuals who are sanctioned (for failure to comply with welfare-to-work provisions or failure to assign support rights).**
- **Individuals who are excluded by law (fleeing felons, including parole/probation violators, and drug felons).**
- **Individuals who are penalized (for having been found guilty of fraud or for failure to comply with immunization or school attendance requirements).**
- **Individuals who are penalized for failure/refusal to cooperate with the District Attorney (DA) for child support/paternity establishment purposes.**
- **Children subject to MFG for whom MAP amounts cannot be increased.**

For all cases that include the above individuals, income of the sanctioned or penalized individual will be counted unless otherwise exempt. The new grant structure disregards are applied to these individuals' income when determining net nonexempt income to the AU.

Whether the individual is considered to be an AU or non-AU member and how to consider their needs in the eligibility and grant determination depends upon what the law dictates for that particular sanction or penalty. AU/non-AU status and how to consider the needs of individuals in the various sanction/penalty categories are outlined below. Also, if the individual's needs are not to be considered for MAP, the same would apply for applicants in considering needs for MBSAC. The exception is in the case of the child subject to MFG, as

noted below. (Additionally, Attachment 1 conveys the same information in a chart for ease of comparison).

- **Individuals sanctioned for failure to comply with welfare-to-work requirements or failure to assign support rights:** These individuals are removed from the AU. However, for purposes of calculating the grant, they are not categorized as AU members or non-AU members. The intent of this sanction is to make these individuals ineligible for cash aid and to not consider their needs in either the "family" MAP or the AU MAP. We will, however, count their income.

- **Individuals who are excluded by law as defined under MPP Section 82-832:** These individuals are excluded by law and therefore ineligible for cash aid. They are not in the AU and are considered non-AU members. Their needs will be considered in the MAP for non-AU members only if they have income that will be used in the "family" MAP portion of the grant computation.

- **Individuals who are penalized for failure to comply with immunization or school attendance requirements or for being found guilty of fraud as defined under WIC 11486:** These individuals remain in the AU; however, their needs cannot be considered in the MAP for the AU. This means that although they are considered AU members, the aid payment cannot be increased by their needs. However, their income will be considered, because they remain AU members.

- **Individuals who are penalized for failure/refusal to cooperate with the DA for child support/paternity establishment purposes:** These individuals remain in the AU and continue to have their needs and income considered in the MAP for the AU. The penalty is a 25 percent reduction of the AU's grant.

- **Children who cannot be included in the MAP due to their MFG status:** These individuals remain in the AU; however, their needs cannot be considered in the MAP for the AU. This means that although they are considered AU members, the aid payment cannot be increased by their needs. For applicant families, however, the needs of the child subject to MFG shall be considered in the MBSAC for the AU. (WIC Sections 11251.3, 11265.2, 11265.8, 11327.5, 11450.04, 11450.13, 11477, 11477.02, 11486, and 11486.5).

Family Composition

21. Is the father of an unborn considered a Non-AU member?

The father of an unborn is considered a non-AU family member, but only for Pregnant Women Only (PWO) cases. In a PWO case, the applicant child is the unborn child. The father of the unborn is included as a non-AU member and his

income is included for the "family" MAP. This replaces the previous "deeming" formula applied to the income of the father of an unborn (MPP Section 44-205.62 and WIC Section 11008.14).

22. Do siblings who are non-AU members have to meet all the age requirements specified in MPP Section 42-100 in order to have their needs considered?

No. Non-AU siblings must be under age 18 in order to have their needs considered.

Aid Payments

23. The AU consists of a mother receiving SDI and her child. The unaided stepfather is also living in the home. This AU is entitled to the (higher) exempt MAP due to the mother's disability. When calculating the grant for the family, including non-AU people, what MAP level should be used, exempt or non-exempt MAP?

The MAP to be used is based on the AU's exempt/non-exempt status. In this case, the correct MAP is the higher (exempt) MAP, based on the AU's exempt status (WIC Section 11450.019 and MPP Section 89-110.2).

24. ACL 97-59 states that exempt MAP levels are limited to families in which each of the adult caretaker relatives in the AU meets certain conditions. One of those categories is when an individual is "disabled and receiving SSI/SSP benefits or IHSS benefits." Does this exemption apply only to those individuals who are disabled, or does it continue to apply to those individuals who are receiving SSI/SSP or IHSS benefits and are blind and aged?

The exemption also applies to those individuals who receive SSI/SSP or IHSS benefits due to age or blindness (WIC Section 11450.019).

25. Does receipt of TDI qualify an AU for the exempt MAP level? In ACL 97-59, it is listed on the chart on Attachment 3, but it is not listed in the body of the letter (page 5, under MAP levels).

Yes. TDI qualifies an AU for exempt MAP status (WIC Section 11450.019).

Budgeting

26. For continuing cases, in the transition months of January and February 1998, when reviewing cases to consider non-AU family members' income under the new grant structure rules, should their income be budgeted prospectively or retrospectively? For example, if a step-parent has been living in the home, and their income has been deemed to the AU using old

deeming formulas, what month's income do counties use to determine January's aid payment, November 1997's income or January 1998's income?

If the step-parent has been living in the home and his/her income has been deemed to the AU retrospectively, continue to use retrospective budgeting. The step-parent's November 1997 income would be used to compute the AU's aid payment for January 1998 (and December 1997's income for the February aid payment). Under the new grant structure rules, they will be considered non-AU members, and their needs and income will be considered in the "family" MAP portion of the grant calculation (WIC Section 11008.14).

27. Does the 5% and 10% adjustment of the MAP for overpayments include MAP plus special needs, or just MAP?

The 5% and 10% adjustment of the MAP for overpayments applies only to the MAP (WIC Sections 11004[c] and 11450).

Elimination of Late Monthly Reporting Penalties

28. ACL 97-67 eliminates penalties for late reporting of earned income. Does this also apply to recipients who fail to report any income or only report partial income? When computing an overpayment for failure to report or partially reporting income, would counties allow the disregards or not?

Effective January 1, 1998, there is no penalty for late reporting of income. This includes reporting only partial income or not reporting income at all. The loss of earned income disregards as a penalty can no longer be applied under any circumstance.

In computing overpayments, counties must consider when the overpayment occurred. If it occurred in a month prior to January 1, 1998, the old AFDC rules would apply. In that case, if the overpayment was due to late reporting or failure to report complete earnings, the earned income disregards ($90 standard work expense, $30 and 1/3, and child care costs) would not be allowed. If the overpayment occurred on or after January 1, 1998, counties must use the new disregards when recomputing the grant.

29. If a parent quits or refuses a job or reduces income in a budget month without good cause, does the penalty (loss of earned income disregards) apply?

No. The previous penalty called for loss of disregards that were specified in law and regulation. Since those disregards no longer exist, the penalty cannot be applied for any reason.

Reduced Income Supplemental Payments (RISP)

30. Do we still have RISPs under CalWORKs? Is there any change to the method of calculating a RISP?

Yes, RISP requirements continue. The changes to the RISP calculation incorporate changes in the grant structure, i.e. use of the $225 disregard, 50% earned income disregard. In addition, court ordered child support payments are no longer used as a deduction in determining RISP month available income (MPP Section 44-401 and WIC Sections 11451.5 and 11450.2).

31. Previously, in the RISP calculation, WIC Section 11450.2 disallowed the use of the $30 and 1/3 or $30 deduction in determining net available income in the RISP month. Is there a similar disallowance of a deduction in determining net available income in the RISP month under CalWORKs?

In RISP calculations there is no disallowance of disregards. CalWORKs requires the use of all applicable new disregards in determining RISP month available income (WIC Section 11451.5).

IMMUNIZATIONS

32. The AU consists of the mother, her child, a common child and the unmarried father. The mother does not comply with immunization regulations and she is penalized. Does the other parent also get penalized? What if they were married? What if the second parent is a stepparent, does he/she also get penalized?

If both parents (married or unmarried) are in the AU, both get penalized. If the stepparent is in the AU with the caretaker parent, only the caretaker parent is penalized. However, if the biological parent is absent and the stepparent is the caretaker relative, then the stepparent would be penalized (WIC Section 11265.8).

33. If the family does not provide proof of immunization, a penalty is applied. What happens if six months later the child is no longer a pre-school age child? Should the penalty be removed?

When the child reaches the age of compulsory school attendance, she/he is no longer a pre-school child under age 6 and the penalty would no longer apply and should be removed (WIC Section 11265.8).

34. An MFG child is included in the AU but the MAP has not been increased for his/her needs. If the parent of this child fails to get him/her immunized, is the parent penalized?

Yes. The MFG child is still part of the AU and must meet all CalWORKs eligibility requirements in order to be eligible. The parent(s) is(are) responsible for meeting the immunization requirements; therefore, the parent(s) is(are) subject to a penalty for noncompliance (WIC 11265.8).

PROPERTY

Lump Sum

35. Under CalWORKs when a lump sum is received, it is treated as income in that month. In the following month it becomes a resource. Must the county verify the spend-down to determine if the AU is under the property limits?

Yes. The monitoring and verification of a recipient's spend-down of lump sum resources must be done. How this is done is up to the county's discretion. An AU that is close to the property limit should be monitored to insure that it does not exceed the limit. An AU that is over the property limit would not be eligible for aid in the following month and should be discontinued (WIC Section 11157 and MPP Section 44-207).

Transfer Of Assets

36. When the AFDC program previously had a transfer of assets rule, the amount that was considered for determining a "period of ineligibility" was only the amount that was over the property limit. If the amount in excess of the property limit was transferred with the intent to qualify for aid, that amount was used to determine a period of time during which the family would be ineligible. What amount of property will we consider in making a determination of the period of ineligibility (POI)?

The transfer of assets rule applies to all recipients without regard to their intent to qualify for aid. The amount of property that is used to calculate the POI is that amount in excess of the recipient's property limit (WIC Section 11157.5).

SCHOOL ATTENDANCE

37. Does enrollment in school meet the new school attendance requirement?

No. The law is clear that a school age child must be regularly attending school as a CalWORKs requirement and not just enrolled (WIC Section 11253.5).

38. How does a recipient cure a sanction that has been applied to a family who fails to send their child to school and at what point? Is it based on the recipient's word that they will send their child back to school? Do they get something from the school in writing?

The county has flexibility to set requirements for verification of attendance (WIC Section 11253.5).

39. A child is not going to school because he/she has been expelled/suspended. Is this situation the same as a parent failing to send his/her child to school? How is this situation treated?

It will depend on how the county defines attendance (WIC Section 11253.5).

40. An AU of two consists of the mother and a 16-year old child. The mother does not provide verification that the child is attending school. Is the mother eligible?

Yes. The same penalty applies for failure to cooperate as applies for failure to regularly attend school. If the child is under age 16 and the parent fails to cooperate in providing verification, the grant is reduced by the amount equal to the parent's needs. If the child is age 16 or older, then the grant is reduced by an amount equal to the 16-year old child's needs. Therefore, in this instance while both the mother and the child remain in the AU, the grant is reduced by an amount equal to the 16-year old's needs (WIC Section 11253.5[e]).

TIME LIMITS

41. A recipient in California leaves the state and receives aid in another state, then returns to California and requests aid. Is the time on aid in the other state counted toward the 60-month limit?

Yes. Aid received from January 1, 1998, forward in another state counts towards California's 60 month time clock (WIC Section 1454[c]).

42. Do partial months on aid count as full months toward the 60-month limit?

Yes. Partial months on aid count as full months toward the federal and state 60-month time clocks. The exception would be the calculation of months for a diversion payment when the diversion recipient comes back to apply for aid during the diversion period and opts to have the months applied toward the time limit rather than have the diversion payment recouped. See answer to question # 43.

43. Does the receipt of diversion assistance always result in at least one month counted against the 18-, 24-, and 60-month time limits?

No. Diversion payments do not count against the 18/24-month limits. However, the month in which the diversion payment is made does count against the 60-month limit. If the individual does not return to receive aid within the diversion period, only this month will count. If the individual returns to receive aid **within** the diversion period, his/her California time clock should be adjusted as follows:

- If the individual has the diversion payment recouped from the grant, no months shall be counted.

- If the individual opts to have the diversion payment counted, all of the months in the diversion period should be counted.

44. Does advanced age stop the 60-month time clock?

Yes. For purposes of California's 60-month clock, the clock will stop when the individual reaches age 60.

VOUCHER/VENDOR PAYMENTS

45. In cases where an adult member of the AU becomes ineligible due to a felony drug conviction or a parent or caretaker relative has been sanctioned for a period of at least three months, what does the county do if the grant is insufficient to cover both rent and utilities?

The county must issue a voucher or vendor payment for the grant amount. The grant payment may cover rent, utilities, or some portion of either (WIC Section 11251.3 and ACL 97-66).

46. In the situation above, if the rent and/or utilities are in arrears, does the county pay for the current month only, or must a grant be issued to pay for the arrearages?

Since the payment will be made from the current month's aid payment, the county pays for the current month.

47. What is the time frame for issuing vendor payments?

Counties may continue to follow their existing issuing procedures.

48. Can the county average the individual's utility payments and other possible vendor payments so that each month is consistent?

Counties have flexibility in this situation. However, counties should have a written procedure in place that explains their method for averaging payments.

49. If the sanctioned individual is paying room and board to another individual, does the person to whom room and board is paid qualify as a vendor?

Yes. The law does not define who the vendor may be (WIC Section 11453.2).

50. Is installation of telephone service considered utilities?

Yes. Under current policy, installation of telephone service is considered utilities and would be subject to the vendor payment.

51. If the household is sharing utilities with a non-sanctioned person, what portion of the utilities becomes a voucher payment?

If the household contributes at least $1.00 towards the cost of the utilities, the vendor payment would be the amount of the share contributed by the household.

52. If after making the vendor payment(s), the client's remaining balance is less than $10, does the county send this money to the client?

Yes. The money must be sent to the client.

53. Does a house payment qualify as "rent"?

Yes.