



**CDSS**

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**EDMUND G. BROWN JR.**  
GOVERNOR

October 31, 2013

ALL COUNTY LETTER NO. 13-89

REASON FOR THIS  
TRANSMITTAL

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

**TO:** ALL COUNTY WELFARE DIRECTORS  
ALL COUNTY CALWORKS PROGRAM SPECIALISTS  
ALL COUNTY CALFRESH PROGRAM SPECIALISTS  
ALL COUNTY SPECIAL INVESTIGATIVE UNIT CHIEFS  
ALL COUNTY CIVIL RIGHTS COORDINATORS

**SUBJECT:** CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO KIDS (CalWORKs) AND CALFRESH: STEPS TO DETERMINE REFERRALS FOR INVESTIGATIONS

**REFERENCE:** MANUAL OF POLICY AND PROCEDURES (MPP) DIVISIONS 20 AND 21 WELFARE AND INSTITUTIONS (W&I) CODE SECTIONS 11055.5, AND 18902.5, ALL COUNTY LETTERS (ACL) 08-65 AND 10-01; AND ALL COUNTY INFORMATION NOTICES (ACIN) No. I-96-10, I-45-11 AND I-73-11.

The purpose of this ACL is to remind counties of the current policies related to the steps and considerations to be taken in determining whether it is appropriate to make a referral for investigation in the California Work Opportunity and Responsibility to Kids (CalWORKs) and CalFresh programs. This letter is not intended to restrict referrals for investigation; rather, it is meant to ensure that policy is followed and to remind counties to consider other factors or situations that could prevent the applicant/recipient from providing necessary information when the Eligibility Worker (EW) has received inconsistent case file information. In this letter, the term EW refers to any county staff assisting in eligibility determinations and/or employment services.

The requirements and practices detailed in this letter are to assist the EW in identifying situations that may warrant a request for investigation, and include: early fraud prevention program efforts, review and resolution of reporting discrepancies, effective communications with applicants/recipients regarding the importance of reporting along with the consequences of failing to report that information, and where appropriate, the provision of interpretive services and reasonable accommodations to aid the

applicant's/recipient's understanding of the rules. We have also included examples as an attachment.

### **General Overview**

Per MPP Section 20-004, a referral for fraud investigation shall be made when there is a public allegation/report of fraud, and/or when the EW's observation of conditions which, based upon the EW's knowledge of the case provides reason to suspect that fraud exists or has been attempted by the applicant/recipient. In those situations, the EW shall make a complete and detailed referral to the Special Investigative Unit (SIU) for investigation.

A request for investigation shall be made when there are reasonable grounds to suspect that a crime has occurred. Reasonable grounds (as listed in MPP Section 20-004) exist when one or more of the following criteria are met:

- “.11 An overpayment/overissuance may have or has resulted from a recipient's failure to report information pertinent to eligibility or benefits.
- .12 A questionable situation exists and the applicant/recipient or third party will not cooperate in providing necessary verification that affects eligibility or benefit amount.
- .13 The program staff person finds conflicting information that could affect eligibility or benefit amount, and any further action on his/her part could jeopardize the investigator's ability to investigate.
- .14 Situations involving embezzlement, collusion, conspiracy, trafficking, black marketing or other general program violations.
- .15 Forgery situations, providing that the instrument (e.g., warrant, Authorization to Participate) has been transacted.
- .16 The program staff person receives an allegation of fraud from any government agency.
- .17 A public complaint containing facts which allege a crime (i.e., fraud, perjury, trafficking, embezzlement, etc.) against a public social services program.”

However, prior to determining if a referral for investigation is warranted, the EW should review the case file and ask clarifying questions as needed. There are times when applicants/recipients may have reasons why they were unable to provide complete information regarding their eligibility, or they may have simply made an error. Researching the facts and other information will help indicate to the EW whether there is suspicion of fraud or simply a misunderstanding or a mistake made. This ACL details steps the EW can take to determine what may have contributed to or resulted in discrepant information, and whether a referral for investigation is warranted.

If, based on the EW's review of the information gathered and knowledge of the case, the EW determines that it would be appropriate to make a referral for investigation, the referral shall detail the basis for the request for investigation. An applicant referral shall be made immediately, and prior to the completion of the application or granting of benefits. A recipient referral must be forwarded to the SIU within five working days of making the determination that a referral is warranted (MPP Sections 20-004 and 20-005.322).

County welfare departments (CWDs) should promptly research, review and establish the facts regarding any situation in which it appears possible that benefits are being received on the basis of incorrect, incomplete, or false information (MPP Section 20-005.1). Under any circumstance, improper payment of benefits should be stopped as soon as possible, in accordance with reporting rules, overpayments/overissuances (OP/OI) should be established, if appropriate, and recoupment initiated pursuant to ACL 12-25, MPP Sections 44-352, 63-801, and noticing provisions in MPP Sections 22-071 and 22-072. Prompt action by CWDs will reduce the possible loss of program funds, reduce the OP/OI amount, and make recovery of OPs/OIs more likely.

**Note:** Annual periodic refresher and special training in the prevention and detection of fraud is required to be provided to all program staff and first-line supervisors. A minimum of four hours of refresher training shall be provided each year. New employees shall receive a minimum of eight hours of such training during the first four months of their employment (MPP Section 20-005.2). All training should be developed in collaboration with the county's SIU, and specifically address when to make a referral for investigation. We recommend use of this ACL as part of the training curriculum.

## **Requirements and Recommended Practices for Effective Requests for Fraud Investigations**

### Early Fraud Programs

The California Department of Social Services (CDSS) supports the efforts of those counties that have early fraud prevention and detection programs (see W&I Code Sections 11055.5, 18902.5 and ACIN I-96-10) and encourages those counties that do not yet have an early fraud program to strongly consider the benefits of such programs. Effective early fraud programs carry out expeditious investigations, but do not interfere with intake procedures or cause delays in timely issuance of benefits. By processing requests for investigations during the application process (known as early fraud), a county can determine whether an applicant is ineligible prior to benefits being granted, which may result in future cost savings. These programs can provide the best opportunity to maximize limited resources and avoid the higher costs associated with improper payments, long-term investigation, prosecution, and collection activities.

## Resolving Reporting Discrepancies

### CalWORKs

When an EW identifies a possible reporting discrepancy, the EW is not expected to determine whether fraudulent activity has occurred. It is the EW's role to determine the assistance unit's (AU's) eligibility for cash aid and the amount of assistance to which the AU is entitled. Upon finding a possible error or reporting discrepancy, the EW is tasked with reviewing circumstances of the case and contacting the AU to provide them with an opportunity to clarify or resolve any discrepancies or errors (MPP Section 20-005.) For example, a discrepancy could be found by the EW when comparing the Semi-Annual Reporting 7 (SAR 7) report to the Income and Eligibility Verification System (IEVS) match data. As a result of the case file review and/or contact with the AU, the EW will determine if a referral for investigation is appropriate. The EW should document in the case file the action taken (i.e. whether the discrepancy was clarified and corrections made to the case file), or whether, after this process, the matter was referred for investigation. In cases where discrepancies cannot be satisfactorily resolved and/or the EW suspects the applicant/recipient may have acted in a fraudulent manner, the EW shall prepare a detailed referral to the SIU that describes steps taken by the EW to resolve discrepancies and provides a rationale for why the EW may suspect fraudulent activity.

ACL 10-01, released in January, 2010, provides similar guidance to CWDs regarding appropriate steps to take prior to making a referral for investigation or taking an adverse action against an AU when discrepancies are discovered. Although that ACL focused on discrepancies in residency and Electronic Benefit Transfer (EBT) card usage for both the CalWORKs and CalFresh programs, the information provided in the ACL is helpful in that it may reduce the number of unnecessary referrals or adverse actions by identifying situations that may be commonly seen by EWs.

### CalFresh

In ACIN I-45-11, CDSS indicated that counties should only verify mandatory eligibility factors. However, CWDs shall contact the household to clarify any questionable information affecting eligibility and benefit level submitted by the household in accordance with MPP Section 63-300.5(g).

To be considered questionable, the information on the application or any information reported by the household during the certification period must be inconsistent with statements made by the applicant or recipient and/or inconsistent with other information received by the CWD. When determining if information is questionable, the CWD must base the decision on the household's individual circumstances. These circumstances

may not, in and of themselves, be grounds for a denial or discontinuance of benefits or a referral for investigation. They are only grounds for further exploration. Once a county determines that information provided is questionable, and it would affect a household's eligibility or benefit level, then it must be verified.

Where verification is required to resolve questionable information, the CWD must document why the information was considered questionable. At a minimum this documentation should indicate where in the case file the inconsistency exists, and what documentation was used to resolve the questionable information. The CWD must also document the reason why an alternate source of verification, such as a collateral contact or home visit, was needed, and the reason a collateral contact was rejected and an alternate requested (MPP Section 63-300.5(i)).

#### Recognizing Other Conditions That May Affect Client Reporting

Applicants/recipients are required to cooperate with the CWD in determining their eligibility and to report information that may affect their eligibility or benefit amount (MPP Sections 40-131.3(b) and 63-505.1). Per MPP Section 40-105, applicants/recipients are to assume as much responsibility as they can within their physical, emotional, educational, or other limitations. If the applicant/recipient appears to be trying to cooperate but is having difficulty providing full and complete information, the CWD are required to assist the applicant/recipient in providing full and complete information to determine eligibility (MPP Sections 40-105, 40-126.33, and 63-300.5(i)).

Prior to making any referral for investigation, the CWD should also consider whether there may be other circumstances preventing the applicant/recipient from providing necessary information to the CWD. Examples of circumstances the CWD might consider include, but are not limited to whether the client may have mental or physical challenges, has difficulty understanding English, or may be experiencing domestic violence issues. Pursuant to MPP Section 40-107(a), it is the county's responsibility to evaluate the applicants'/recipients' capacity to meet their responsibilities as set forth in MPP Section 40-105, and to assist them as needed. For example, some applicants/recipients may have difficulty understanding how to correctly fill out the periodic income reports. EWs should provide additional review of the form and questions, etc., but if the person still struggles with the form, the EW should assist the applicant/recipient in completing the form. Additionally, the CWDs are required to advise applicants/recipients of the availability of reasonable accommodations, and are obligated to provide those accommodations when requested. In reviewing whether a referral for investigation is appropriate, the EW should consider whether the applicant/recipient may have limitations that may affect his/her ability to understand the rules, and to cooperate and report fully and completely. In this context, it is important to

seek clarifying information to make a better evaluation of the circumstances, before determining whether a referral for investigation is appropriate. Additionally, the EW may consult with a supervisor and/or the SIU before determining if a referral is appropriate.

CWDs are reminded to document their findings in the referral for investigation form to describe EW efforts taken to clarify eligibility circumstances and resolve discrepant information.

### Communicating Reporting Responsibilities

Another factor in determining whether an applicant/recipient should or should not be referred for investigation is whether the CWD has taken appropriate steps to ensure the individual understands his/her reporting responsibilities (MPP Section 20-005.3) including offering interpretive services and reasonable accommodations. Prior to making a referral for investigation, the CWD should verify that the recipient reporting responsibilities were explained to the individual in his/her chosen language and if the individual has expressed that he/she understood his/her responsibilities and agrees to meet their responsibilities (MPP Section 40-107). If there's interaction with the applicant/recipient (a face-to-face or telephone interview), staff should do their best to observe and/or actively listen to the applicant's/recipient's reaction to see if they appear to understand or if they might be confused. If it appears that the applicant/recipient may be having difficulty understanding what he/she is being told, one way to determine if an individual understood the EW is to ask the individual to "repeat back" a summary of what he/she was told.

Applicants and recipients should be fully aware of their reporting responsibilities to ensure correct reporting and minimize reporting errors. If the applicant/recipient does not understand his/her responsibilities, the failure to report eligibility facts could be attributed to a misunderstanding. The county needs to take these factors and other information into consideration to determine if there are reasonable grounds to make a referral for investigation. CWDs should document that they have fully informed the applicants/recipients of their rights and responsibilities in the appropriate language and have provided reasonable accommodations where necessary, and note that the applicants/recipients appear to understand what they were told and that they stated that they understand.

Given the amount of information an applicant/recipient must understand, as well as the serious consequences applicants/recipients face if they do not report information correctly, the EW should give the applicant/recipient ample time to read all the information provided or take the time to review all the information with the applicant/recipient, or both. Simply providing the applicant/recipient with written materials regarding his/her rights and responsibilities without verbally reviewing them with the applicant/recipient could result in increased reporting errors, discrepancies, and misunderstandings, as well as inappropriate referrals for investigation.

At application and recertification/determination, EWs should clearly communicate program reporting requirements. It is particularly important to explain how and when to report anticipated income, especially when the applicant's/recipient's income fluctuates. Specifically, EWs must ensure that the applicant/recipient understands how to report for the programs for which he/she is seeking or receiving benefits, how to get help with reporting, and that it is a crime if the applicant/recipient intentionally misreports or fails to report. EWs must clearly explain that the caretaker relative is required to report eligibility facts or changes in eligibility, even if the individual is not in the AU or aided (e.g. when the adult is sanctioned, timed out, or ineligible due to immigration status).

EWs must also explain that applicants/recipients are required to report all income, whether or not it is countable against the grant. For example, EWs should explain clearly to AUs/households that while work study, Supplemental Security Income and other types of exempt income may not cause the grant to go down, clients are required to report all income and should not try to make their own determination of what to report or not report. It is important to discuss with AUs/households that include an In Home Supportive Services (IHSS) provider that the IHSS wages they receive are earnings and must be reported.

While applicant/recipient reporting responsibilities are included on several forms such as the SAWS 2A and SAR 7A, it is helpful to verbally discuss reporting responsibilities and consequences of failing to report or misreporting to ensure applicants/recipients fully understand what's expected of them and what can happen if they do not do what they are supposed to do.

Finally, CWDs are required to discuss fraud with each applicant/recipient to help deter fraud by raising awareness about what fraud is and what the consequences are for committing fraud. A best practice includes having staff use non-technical language. For example, the EW should explain to the applicant/recipient that terminology such as "under penalty of perjury" means that "the information you are reporting is true, and if it's not true, you may be committing a crime" and/or "prosecuted as a felony" means "taken to criminal court with the possibility of one year or more of jail or prison time." In addition, the EW should explain to the applicant/recipient that having a felony record could make it difficult to obtain future employment. EWs can also decrease the likelihood of fraud by explaining that the state uses multiple data matches from other programs and agencies to detect unreported income and assets, and that the state monitors the use of EBT card transactions. In addition, EWs should inform applicants/recipients that any person aware of fraud can call in to report it.

### Other Considerations

CWDs are reminded of the requirements to provide interpretive services to non- and limited-English speaking applicants/recipients in accordance with MPP Section 21-115 and ACL 08-65. Additionally, CWDs are required to provide reasonable accommodations for applicants/recipients with physical and mental disabilities, and learning disabilities, per MPP Sections 21-111 and 21-115. Use of these services may help the applicant/recipient better understand his/her responsibilities, minimize discrepancies, and avoid a referral for investigation. However, if a referral is deemed appropriate, the county is required to provide, if applicable, the interpretive services and/or reasonable accommodation information, and it should be noted in the referral for investigation form.

If the EW is aware that domestic violence may be affecting an applicant/recipient's ability to provide necessary information, it should be noted in the referral for investigation form. The need to consider if domestic violence is occurring is both because the SIU should be aware of safety concerns for themselves or a household member, and also because it may be relevant to the SIU's evaluation of the individual's conduct relative to the referral for investigation. Additionally, the CWD should follow their domestic violence protocols and offer domestic violence related services to the applicant/recipient as appropriate.

**Note:** CWDs are required to provide civil rights training to each public contact employee. To enhance overall program service delivery, the training programs are required to cover civil rights regulations and cultural awareness. These training programs must be provided to county EWs (MPP Sections 21-117.1-3). Refresher trainings should be given regularly. We recommend use of this ACL as part of the training curriculum.

### Referral to the SIU

If, after attempting to resolve the discrepant information, the EW suspects fraud he/she should make a referral for investigation and document the facts or conditions that may have affected the applicant/recipient's ability to provide necessary information along with those facts constituting reasonable grounds for a referral for investigation. Such factors could include language barriers, literacy, learning disabilities, and/or mental health issues.

Please note that there will also be situations where any further action on the part of the EW would jeopardize an investigator's ability to investigate (MPP Section 20-004.13). In those situations, the EW will make a referral for investigation to the SIU providing the details of the case on the referral for investigation form.

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If you have any questions regarding this ACL, please contact the following CDSS Bureaus:

Fraud Bureau  
(916) 653-1826

CalWORKs Eligibility Bureau  
(916) 654-1322

CalFresh Policy Bureau  
(916) 654-1896

Civil Rights Bureau  
(916) 654-2107

Sincerely,

***Original Document Signed By:***

TODD BLAND  
Deputy Director  
Welfare to Work Division

Attachment

The following are examples of potential referrals for investigations:

**Example 1:**

*Martha Smith applied for cash assistance claiming no income in her application form. She was approved for aid, but in her first SAR 7 report she included conflicting income information by checking "no" regarding receipt of income but attached pay stubs from a job. After reviewing the SAR 7, the Eligibility Worker (EW) contacted Martha about her employment situation and learned that Martha had started a new job and mistakenly checked the wrong box on the SAR 7 form.*

*In this example, the EW discussed the discrepancy with Martha and determined that Martha had simply made an error on the SAR 7. Based on the EW's findings, no further action is required.*

**Example 2:**

*Martha Smith applied for assistance claiming no income in her application but stated that she anticipated starting a job and provided a start date and hourly income. On her first SAR 7 report, Martha did not list any income information. The EW contacted Martha about the discrepancy between information reported in her application and her first SAR 7 report regarding the anticipated job. Martha said the job offer was withdrawn and she has no income.*

*In this example, the EW discussed the discrepancy with Martha. Based on Martha's information regarding the job offer withdrawal, no further action is required.*

**Example 3:**

*John Jones applied for CalFresh stating he lives with his father at 116 Western Street and pays rent to his father. The EW determined John was not eligible as his own household because he is 20 years old, living with his father, and his father is not disabled. When the EW told John he was not eligible for these reasons, John stated that he meant to say he lived on his father's property at 116A Western Street in a housing unit behind his father's house and pays rent to his father. As this was discrepant information, the EW requested verification of the living arrangement and John stated that he would not provide documentation. As a result, the EW denied the application.*

*In this example, the EW denied the application because John is unwilling to provide verification to establish eligibility. Therefore, no further action is required.*

**Example 4:**

*Paul Brown receives CalWORKs and supportive services (child care and transportation) and reports employment in San Francisco doing in-home care through ABC HomeCare, Inc. Paul provides copies of the paychecks to the EW, which are personal checks from the owner. Paul is eligible for mileage and bridge toll reimbursement. The county advises Paul in advance that bridge toll receipts are required for bridge toll reimbursement. When the EW asks for the bridge toll receipts, Paul stated that "it would be too much of a pain" to keep and provide receipts and refuses to get any. The EW reviews Paul's employment hours verification, and notes that it is handwritten on paper without letterhead or a business address. Based on the non-standard paychecks, the lack of any bridge toll receipts, and the lack of business identification on the employment verification, the EW looks for business information on the employer. The EW found no listing for ABC HomeCare, but found the business address for ABC HomeCare was a UPS store. The EW referred this case to investigation to verify employment.*

*In this example, the EW made an appropriate referral for investigation because Paul provided documentation that was questionable.*

**Example 5:**

*An EW receives an anonymous phone call that Jane Brown is shopping a lot or exclusively in a nearby county. Since Jane receives CalWORKs, the EW contacts the recipient to inquire about whether she has moved. The EW explains that if she is living in another county, this will not affect eligibility but simply means the case needs to be transferred. The recipient explained that the store is closer to home and confirms she continues to reside in the county handling her case. The EW narrates this in the case file and no referral to the SIU is necessary.*

*In this example, the EW sought clarifying answers by contacting Jane. Based on Jane's explanation to why she shops frequently in the nearby county, the EW determined that no further action is required (See ACL 10-01).*