



CDSS

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EDMUND G. BROWN JR.
GOVERNOR

NOVEMBER 20, 2014

ALL COUNTY LETTER NO. 14-81

REASON FOR THIS TRANSMITTAL

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

TO: ALL COUNTY WELFARE DIRECTORS
 ALL CALWORKS PROGRAM SPECIALISTS
 ALL WELFARE-TO-WORK COORDINATORS
 ALL COUNTY REFUGEE COORDINATORS
 ALL COUNTY CALFRESH SPECIALISTS
 ALL CONSORTIA REPRESENTATIVES
 ALL TRIBAL TANF ADMINISTRATORS
 ALL CHILD CARE COORDINATORS

SUBJECT: CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO KIDS (CALWORKS) PROGRAM: CLARIFYING GUIDANCE FOR THE IMPLEMENTATION OF THE EXPANDED SUBSIDIZED EMPLOYMENT (ESE) PROGRAM RESULTING FROM THE PASSAGE OF [ASSEMBLY BILL \(AB\) 74](#) (CHAPTER 21, STATUTES OF 2013)

REFERENCE: ALL COUNTY LETTERS (ACL): [09-07](#), [11-32](#), [11-58](#), [12-15](#), [12-29](#), [13-70](#), [13-81](#), [13-101](#), AND [14-17](#); COUNTY FISCAL LETTERS (CFL) [13/14-22](#), [13/14-23](#), [13/14-50](#), [13/14-58](#), and [14/15-18](#); WELFARE AND INSTITUTIONS CODE (WIC) SECTIONS [11322.63](#) AND [11322.64](#); CODE OF FEDERAL REGULATIONS TITLE 45, [PARTS 144, 147, 150, 154, AND 156](#)

The purpose of this letter is to provide answers to questions that the California Department of Social Services (CDSS) has received from county welfare departments (CWDs) about the ESE Program. The ESE Program went into effect on July 1, 2013 in accordance with AB 74 and provides funding for subsidized employment outside of the Single Allocation. ACL 13-81, released on September 30, 2013, has guidance for CWDs to implement the ESE Program. Guidance regarding ESE claiming, base

funding amounts, and allocations is provided in CFLs 13/14-22 (September 30, 2014), 13/14-50 (May 15, 2014), 13/14-58 (July 1, 2014), and 14/15-18 (September 11, 2014).

The CDSS hopes the information provided in this letter is helpful to CWDs in supporting the operation of their ESE Programs. If you have ESE Program policy questions or questions about obtaining access to upload data, please contact your CDSS Employment Bureau County Consultant at (916) 654-2137 or the ESE Program at ESEProgram@dss.ca.gov. Please direct your fiscal questions to the Fiscal Systems Bureau electronic mailbox at fiscal.systems@dss.ca.gov. For questions regarding ESE data reports, please contact the CDSS Data Systems and Survey Design Bureau at (916) 651-8269.

Sincerely,

Original Document Signed By:

TODD R. BLAND
Deputy Director
Welfare-to-Work Division

Attachment

Questions (Q) and Answers (A):
for the Expanded Subsidized Employment (ESE) Program

Separating Assembly Bill (AB) 98 and ESE Funds

1. Q: When a County Welfare Department (CWD) implements the ESE Program, some participants and employers will still be in their initial six-month placement in the Assembly Bill (AB) 98 Subsidized Employment Program (AB 98 Program). Can CWDs end the contract and transition both the employer and the participant into the new ESE Program for the remainder of the months the participant has left on her or his six-month placement?

A: No. Counties cannot transition a participant who is in the midst of an AB 98 Program placement to an ESE Program placement or one using ESE funding. If the CWD ends the contract in order to claim the remaining months of the AB 98 Program placement to ESE funds, this is considered using ESE funds for the AB 98 Program. ESE funds cannot be used for the AB 98 Program, as stated in All County Letter (ACL) 13-81:

“Funds allocated for ESE shall be in addition to, and independent of, the CWDs’ Single Allocation and cannot be used by CWDs to fund or supplement the AB 98 Subsidized Employment Program as described in Welfare and Institutions Code (WIC) Section 11322.63 and the California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Section 42-716.8. CWDs may, at their discretion, supplement ESE with Single Allocation funds.”

Furthermore, the purpose of the ESE Program is for CWDs to increase the number of subsidized employment placements they provide and not take the place of existing efforts. As explained in WIC Section 11322.63(f)(1), CWDs that accept funding for the ESE Program will continue to maintain the level of fiscal year (FY) 2012-13 funding for subsidized employment in order to claim expenses to the ESE Program. This is the base funding requirement, and details about this requirement are provided in County Fiscal Letter (CFL) 13/14-50.

2. Q: If a participant completes her or his ESE placement but is not hired by the ESE subsidized employer and does not find other unsubsidized employment, can the participant be placed in the AB 98 Program as part of a strategy to transition the participant into unsubsidized employment?

A: Yes, as long as the AB 98 Program placement starts after the completion of the ESE placement. Participants cannot be employed at the time of entry into

the AB 98 program, and as stated in question one, ESE funds cannot be combined with the AB 98 Program. However, once the ESE Placement has concluded, the subsidized employment participant may be placed into the AB 98 Program with its own agreement, contract, or memorandum of understanding if such a placement is consistent with the participant's individualized assessment and will likely lead to unsubsidized employment and self-sufficiency. Also, the participant will remain employed while looking for unsubsidized employment as needed. This strategy may also help the CWD to meet its base funding requirement as described in CFL 13/14-50.

3. Q: In order for a CWD to implement an ESE Program, does the CWD need to end the existing AB 98 Subsidized Employment program?

A: No. The AB 98 Program remains in effect, and CWDs operating an AB 98 Program need to continue reporting data for this program on a monthly basis. As noted in CFL 13/14-22, CWDs may claim concurrently to the ESE and AB 98 Programs. The purpose of the ESE Program is to increase the number of subsidized employment placements CWDs provide. Also, in order to have an ESE Program, CWDs need to maintain their base funding requirements as explained in CFL 13/14-50. Expenses claimed to the AB 98 program can help CWDs to meet the base funding requirement.

4. Is it allowable for counties to have a single subsidized employment program with three funding sources (the Single Allocation, AB 98 and ESE) rather than three separate programs? Claiming to the allocations would be based on the participant's eligibility to the program.

A: CWDs can claim to Single Allocation, AB 98, and ESE for a single subsidized employment program. In other words, a CWD can use the same structure for various types of placements and claim to different sources. However, CWDs may not be able to combine claiming for individual placements. For example, the AB 98 and ESE Programs may be supplemented with Single Allocation funds, but AB 98 and ESE funding cannot be combined for subsidized employment placements.

Eligibility and Participation in ESE

5. Q: ACL 13-81 states that all CalWORKs clients required to participate in WTW are eligible for the ESE Program. Is it correct that clients who have exceeded the CalWORKs 48-Month time limit and are receiving benefits for their eligible children as defined in the CDSS MPP Section [42-301.1](#) are not eligible to participate in the ESE Program as they are for the AB 98 Program?

A: Individuals who have exceeded the CalWORKs 48-month time limit are NOT eligible to participate in the ESE Program. WIC section 11322.64(a)(1) states that ESE Program funds may be used for “CalWORKs recipients.” ACL 13-81 clarifies that “All CalWORKs clients required to participate in WTW are eligible for ESE. CWDs also have the option to place exempt volunteers who choose to do this activity in the ESE Program.” ESE participants whose income out of CalWORKs due to ESE income may continue in the ESE Program until the end of the placement.

MPP section [42-717](#) states that job retention services may be provided to employed former CalWORKs recipients for up to 12 months. MPP section 42-717 includes a partial list of potential job retention services and does not exclude subsidized employment. Therefore, former ESE participants may continue to participate in non-ESE subsidized employment as a job retention service if consistent with CWD policy.

In accordance with CFL 13/14-22 (page 3, “Claiming Instructions”), Program Codes 633 and 451 are available to use for individuals who were participating in the ESE Program but have now exceeded their CalWORKs 48-month time limit. However, if the CWD does not have job retention services in its county CalWORKs plan or its job retention services are defined in the plan in such a way that subsidized employment is excluded, the CWD will need to amend its county CalWORKs plan if it intends to provide subsidized employment as a post-aid service. For information on submitting a plan amendment, see [ACIN I-20-09](#).

6. Q: Can CalWORKs individuals who are in sanction status participate in the ESE Program?

A: At CWD option, sanctioned individuals may participate in the ESE Program if participation will cure the sanction. ESE participants who cure their sanctions through the ESE Program must maintain compliance with WTW requirements to continue in the placement. Please refer to question five for additional information regarding eligibility for the ESE Program.

Implementing an ESE Program

7. Q: Is a CWD required to have an AB 98 Subsidized Employment Program in order to participate in the ESE Program?

A: No. A CWD may, at its discretion, provide an AB 98 Program independent of the ESE Program, but there is no requirement for a CWD to have an AB 98 Program to implement an ESE Program. CWDs with AB 98 Programs can use

expenses claimed to the AB 98 Program to help meet the base funding requirement for the ESE Program as described in CFL 13/14-50.

8. Q: Can CWDs use ESE funds for categories of subsidized employment that it has not provided in the past (e.g., subsidized employment in the private sector, AB 98 Program) or are CWDs limited to using ESE funds only for categories of subsidized employment that they have offered in the past (e.g., subsidized employment in the public sector)?

A: ESE funding is not limited to the types of subsidized employment that CWDs have provided in the past through other programs or with other funding sources. CWDs may claim subsidized employment in the private sector and the public sector to the ESE Program. ESE funds may not be combined with AB 98 subsidies for the same placement.

9. Q: If a CWD has allocated Single Allocation funds to administer a subsidized employment program, can that CWD continue to administer that program as a standalone program and claim for that program? Can that CWD then set up a separate ESE Program, independent of the Single Allocation and administer and claim for the ESE Program separately? If the CWD continues to administer the Single Allocation subsidized employment program, would the base funding requirement criteria change for the following fiscal year?

A: The CWD may continue subsidized employment programs separate from the ESE Program (e.g., Single Allocation funds and the AB 98 Program). The purpose of the ESE Program is to increase the number of subsidized employment placements CWDs provide. The base funding requirement will continue to be based on CWDs' Single Allocation and AB 98 Program subsidized employment expenses in fiscal year 2012-13. Details about the base funding requirement are in CFL 13/14-50.

10. Q: Under the AB 98 Program, CWDs claim costs outside of the Single Allocation in an amount up to 50 percent less \$113 of the total wage costs of an employee for whom a wage subsidy is paid, not to exceed 100 percent of the computed grant for the assistance unit in the month prior to participation. Under the ESE Program, are CWDs supposed to claim costs for the wage subsidy out of the new ESE allocation or does it work the same as under the AB 98 Program?

A: The ESE Program does not have a subsidy formula like the AB 98 Program, and CWDs may claim costs for the ESE Program directly to the ESE allocation. See CFL 13/14-22 for details about claiming ESE expenditures and CFLs 13/14-23 and 14/15-18 for information about ESE Program allocations.

11. Q: Can CWDs partner with for-profit companies and/or non-profits that have retail stores, warehouses, shipping and receiving areas, transportation departments, office clerical work areas, and more that they use as work sites to train transitional employees in order to prepare them for unsubsidized employment after six months of work site training?

A: CWDs are encouraged to develop or expand partnerships with various entities, including private non-profit and for-profit employers, to administer the ESE Program. Please refer to ACL 12-15 for information about the definition and responsibilities for employers of record, particularly concerning workers' compensation coverage.

12. Q: Can CWDs place ESE participants in part-time employment?

A: WIC Section 11322.64 does not preclude placing participants in part-time positions. Each CWD is able to determine how to best serve its participants and also meet the requirements of the CalWORKs WTW 24-month time clock (24-MTC) and/or CalWORKs federal standards. CWDs are encouraged to create as many new subsidized employment placements as possible. Part-time positions may be a successful strategy for CWDs to create more placements and also allow participants to include training and education programs that will enhance their employability. Subsidized employment is an allowable activity for both the CalWORKs 24-MTC and CalWORKs federal standards.

Base Funding Requirement and Operational Costs

13. Q: Is there a base funding requirement to have an ESE Program?

A: Yes. CWDs that accept funding for the ESE Program will continue to maintain the level of FY 2012-13 funding for subsidized employment in order to also claim expenses to the ESE Program. Details about the base funding requirement are in CFL 13/14-50.

14. Q: According to ACL 13-81, ESE funds may be used to cover all operational costs of the ESE Program, including providing training to participants. Does this include training for customer service, soft-skills, and computer basics?

A: Training costs may be claimed to the ESE Program if the training is a requirement of the ESE placement or is a requirement for the client to participate in the ESE Program. For example, if a participant has been placed in a job that requires specific training to be successful in the placement, and this training is not provided by the employer as part of the paid hours of the placement, then this

training may be claimed to the ESE Program as an operational cost. Another example of an allowable expense is placing clients in soft skills training to prepare them for placement in the ESE Program.

The CWD may not claim training costs to the ESE Program if the CWD places a client into a training or education activity without the intention of placing the client in an ESE Program placement that requires that training or education. For example, a client may be placed in a vocational education program or into an adult basic education program based on the client's needs but is not placed in the activity as a prerequisite to or expectation of being placed in the ESE Program. Training claimed to the ESE Program needs to be training designed to assist clients with their placements or to move clients into ESE placements as soon as possible.

Claiming ESE Funds

15.Q: May ESE funds be utilized for case management and administrative costs associated with the ESE Program?

A: Yes. Administrative and case management costs may be charged to the ESE Program. See to CFL 13/14-22 for details on claiming expenses to the ESE Program.

16.Q: Does a CWD's FY 2013-14 ESE allocations roll over into FY 2014-15 if the CWD was unable to use the whole allocation in FY 2013-14? If not, is there a new ESE funding allocation in FY 2014-15?

A: The CWDs' ESE allocations for FY 2013-14 are for FY 2013-14 only. Any amounts counties were unable to spend in FY 2013-14 did not roll over to FY 2014-15, which has new allocations; see CFL 14/15-18 for details. Please note that 57 of 58 counties received ESE allocations for FY 2014-15 (one CWD chose to decline its ESE allocation).

17.Q: Are CWDs required to fund some portion of subsidized employment placement contracts with the Single Allocation and some portion with ESE funds?

A: No. CWDs do not have to split or share subsidized employment expenses between the ESE Program and the Single Allocation. ESE funds may be used for operational costs in addition to wage and non-wage costs for the job subsidy. See CFL 13/14-22 for information on claiming expenses to the ESE Program.

ESE Data Reporting

18.Q: What are the data collection and reporting requirements for a CWD's expansion of subsidized employment under ESE?

A: ACL 14-17, released on May 2, 2014, provides detailed guidelines for ESE Program data reporting.

Affordable Care Act (ACA)

19.Q: Will the ACA impact CWDs' ability to place WTW clients in the ESE Program and other types of subsidized employment due to employer requirements to provide health care?

A: ESE and other CalWORKs subsidized employment participants have the same rights and responsibilities as other individuals who need to obtain health insurance coverage under the ACA. For example, if the subsidized employer offers health insurance benefits to non-CalWORKs employees, then the employer must make this benefit available to CalWORKs subsidized employment participants who perform similar work. More information about the ACA may be obtained at HealthCare.gov and [Covered California](http://CoveredCalifornia.com).