



CDSS

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**DEPARTMENT OF SOCIAL SERVICES**

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EDMUND G. BROWN JR.  
GOVERNOR

March 4, 2016

ALL COUNTY LETTER NO. 16-17

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 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: GUIDELINES REGARDING EMPLOYER PAID SICK LEAVE FOR PARTICIPANTS IN CALWORKS SUBSIDIZED EMPLOYMENT (SE) PROGRAMS RESULTING FROM THE PASSAGE OF [ASSEMBLY BILL \(AB\) 1522](#) (CHAPTER 317, STATUTES OF 2014)

REFERENCE: ALL COUNTY LETTERS (ACL): [11-32](#), [12-15](#), [13-81](#), AND [14-17](#); WELFARE AND INSTITUTIONS CODE (WIC) SECTIONS [11322.63](#) AND [11322.64](#); County Fiscal Letters (CFL) [10/11-65](#) AND [13/14-22](#); GOVERNMENT CODE SECTION [12928](#); ASSEMBLY BILL (AB) [1522](#)

The purpose of this letter is to provide counties with clarifying guidance regarding employer paid sick leave coverage for CalWORKs SE program participants as a result of the passage of AB 1522. This includes retroactivity, the definition of employer and employer of record, exemptions and requirements, claiming, and notification requirements.

### **Background**

AB 1522, Chapter 317 of the Statutes of 2014, (AB 1522) provides that an employee who, on or after July 1, 2015, works in California for 30 or more days within a year from the commencement of employment is entitled to paid sick days to be accrued at a rate of no less than one hour for every 30 hours worked. An employee is entitled to use accrued sick days beginning on the 90th day of employment. Except as specified in Labor Code Section 246(f)(2), an employer is not required to provide compensation to an employee for accrued, unused paid sick days upon termination, resignation, retirement, or other separation from employment.

### **Retroactivity**

The CWD should ensure that the employers of record for SE participants have implemented the guidelines of AB 1522 and that each SE participant has been credited the appropriate amount of sick leave hours that accrued beginning on July 1, 2015.

### **Definition of Employer and Employer of Record**

“Employer” is described by Government Code Section 12928 as “any person or entity identified as the employer on the employee’s Federal Form W-2 (Wage and Tax Statement)”. For the purposes of CalWORKs SE, the term “employer of record” is defined as the entity or agency held responsible for paying wages and taxes for the SE program participant. Generally, the entity responsible for wages and tax withholding is required to provide sick leave for the SE participant.

### **Exemptions and Requirements**

SE participants are not exempt from AB 1522 requirements unless the SE participant is covered by a valid collective bargaining agreement which meets the specified criteria stated in Labor Code Section 245.5(a)(1) or is a provider of in-home supportive services (IHSS).

The employer of record is responsible for complying with AB 1522 requirements by providing paid sick days to their employees.

### **Claiming**

Per County Fiscal Letter 10/11-65, total wage costs are defined as the amount of the actual wage paid directly to the participant by the county social services agency (as the employer), the employer, and/or third party. Sick leave can be billed to the SE program as a wage cost.

**Notification Requirements**

If the employer of record is a temporary services employer, as defined in Labor Code Section 201.3, a written notice must be provided to the SE participant which includes the name and physical address of the main office of the employer of record, the mailing address if different from the physical address, and the telephone number of the legal entity for whom the employee will perform work as specified in Labor Code Section 2810.5(a)(3).

The CDSS hopes the information provided in this letter is helpful to CWDs in supporting the operation of their SE Programs. If you have SE policy questions, please contact your CDSS Employment Bureau County Consultant at (916) 654-2137, the AB 98 Program at [AB98.CN@dss.ca.gov](mailto:AB98.CN@dss.ca.gov), or the ESE Program at [ESEProgram@dss.ca.gov](mailto:ESEProgram@dss.ca.gov). If you have questions regarding claiming SE costs, please contact [Fiscal.Systems@dss.ca.gov](mailto:Fiscal.Systems@dss.ca.gov).

Sincerely,

***Original Document Signed By:***

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