

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



July 21, 2000

ALL COUNTY LETTER 00-48

TO: ALL COUNTY WELFARE DIRECTORS
ALL CalWORKs PROGRAM SPECIALISTS

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: TRACKING DIVERSION PAYMENTS AND STATE-ONLY FUNDED PROGRAMS FOR THE CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO KIDS (CalWORKs) AND TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) PROGRAMS

REFERENCE: ALL COUNTY LETTERS (ACL) 97-65, 97-68, 98-37, 99-54 AND 99-90

This letter is intended to provide additional instruction to counties to track time on aid for purposes of the state and federal 60-month time limits. As requested by the counties, this letter will address diversion and CalWORKs state-only funded programs. The letter also transmits a new Diversion Services Agreement (CW 88) form.

DIVERSION

There are differences in tracking for the federal TANF and state 60-month time limits. This results from such factors as differing implementation dates, exemptions, and types of benefits that count toward the clocks. As previously addressed in detail in ACL 99-90, diversion services do count toward the state CalWORKs 60-month limit. A diversion service is a lump sum payment for a diversion occurrence. The month in which the diversion payment is issued counts as one month toward the CalWORKs 60-month time limit, unless the recipient reapplies for CalWORKs cash aid during the diversion period.

Diversion services are treated differently for the federal TANF 60-month time limit. The main difference is that a diversion payment does not count toward the federal TANF time limit unless the payment meets the definition of TANF "assistance" in the federal regulations; then, it will count as one month toward the TANF 60-month time limit.

We anticipate that most (if not all) CalWORKs diversion payments will be excluded from the federal TANF definition of "assistance." In federal regulation 45 CFR Section 260.31, the definition of "assistance" excludes nonrecurrent, short-term benefits, that: are designed to deal with a specific crisis situation or episode of need; are not intended to meet recurrent or ongoing needs; and will not provide for needs that extend over four months. If diversion services meet this definition, they are excluded from the definition of "assistance" and do not count toward the federal 60-month time limit.

The federal definition of “assistance” also excludes supportive services, such as child care and transportation, to employed families. In addition, it excludes supportive services for families that were recently employed, during temporary periods of unemployment, in order to enable them to maintain continuity in their service arrangements. If the TANF-funded supportive services are provided to an unemployed family and also do not meet the exclusion above for nonrecurrent, short-term benefits, then it is considered “assistance” and counts toward the federal TANF time limit.

The final federal regulations revised the prior definition of an excluded diversion payment in the proposed regulations to include the term “nonrecurrent” rather than “one-time.” Based on this definition, a family may receive diversion benefits more than once. To be consistent with this definition, there must be an expectation at the time the diversion payment is made that the situation will not occur again, and such benefits are not to be provided on a regular basis. The four-month limitation does not restrict the amount of past debts or liabilities (such as overdue rent) that a State may cover or impose a specific monetary limit on the amount of benefits that the State may provide. It merely places a four-month limitation on the period of time for which future needs can be addressed by a single, nonrecurrent, short-term benefit in order to exclude the diversion from the definition of “assistance.” (State law allows a county to provide a lump sum diversion service that addresses more than four months of needs.)

The federal regulation defines “assistance” as benefits to meet such ongoing basic needs as food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses. For purposes of the federal four-month limitation, the number of “months of needs” is not based on the Maximum Aid Payment (MAP) for the assistance unit (AU) in the CalWORKs program. A “month of needs” defined by TANF (for rent, car repairs, or utility bills, for example) is not limited to a monetary amount. The amount may be above or below the MAP amount. It is also important to understand that the “diversion period,” which is based on MAP and applies under CalWORKs, is different from “months of needs,” for the four-month limit in the exclusion to the TANF definition of “assistance.”

REAPPLICATION FOR CASH ASSISTANCE DURING DIVERSION PERIOD

For the CalWORKs 60-month time limit, if the individual reapplies for aid within the diversion period, then the individual has the option to have the diversion payment recouped from the CalWORKs cash aid, or have the diversion payment count toward the CalWORKs 60-month time limit. Any cash aid payments provided during the diversion period, as a result of returning to cash aid, are counted toward the CalWORKs 60-month time limit. This may result in a calendar month being counted twice.

However, for the federal TANF 60-month time limit, if the individual reapplies for aid, the federal regulations do not require that the diversion payment be redefined as “assistance” retroactively. Therefore, the diversion payment continues to be treated as it was before the reapplication for aid. Any cash aid payments provided during the period that the individual returns to cash aid will be considered “assistance” and counted toward the federal TANF 60-month time limit.

The following examples demonstrate how a diversion service is determined and applied toward the CalWORKs and TANF 60-month time limits.

Example 1

Diversion service for AU of 3, mother is employed: Payment is for car repairs. The intended purpose of the car is for transportation, thus, the applicant can continue working at her present job. Her job duties for the Cerebral Palsy Foundation include weekly visits to clients' homes.

Diversion period: For the CalWORKs diversion period calculation, the diversion amount of \$1,788.00 is divided by \$596.00 (MAP for AU of 3) = 3 months.
February, March, and April constitute the three-month diversion period.

CalWORKs 60-Month Time Limit: The month of February is counted toward the CalWORKs 60-month time limit. If the individual reapplies for cash aid during the diversion period (February - April), and chooses to have the diversion payment count toward the time limit, then the three months are counted toward the CalWORKs 60-month time limit.

Federal TANF 60-Month Time Limit: The diversion payment is not counted toward the Federal TANF 60-month time limit because it does not meet the federal definition of "assistance." Because it is not "assistance," no month of aid is counted toward the federal TANF time limit. Any cash aid payments provided, if a recipient returns to aid, are counted toward both the TANF and CalWORKs 60-month time limits.

Example 2

Diversion service for AU of 2, parent is employed: Payment is for truck payments and future monthly utility bills. The intended purpose is to pay off the balance of the accrued truck payments to prevent repossession by the creditor and to assist with the utility bills for the following five months. The truck is needed for transportation to work. The monthly utility bills equal \$350.00/month for a total of \$1,750.00, and the accrued debt for his truck is \$1,250.00.

Diversion period: For the CalWORKs diversion period calculation, the total diversion amount of \$3,000.00 is divided by \$481.00 (MAP for AU of 2) = 6.24 months.
January, February, March, April, May, and June constitute the six-month period.

CalWORKs 60-Month Time Limit: The month of January is counted toward the CalWORKs 60-month time limit. If the individual reapplies for cash aid during the diversion period (January – June), and chooses to have the diversion payment count toward the time limit, then the six months are counted toward the CalWORKs 60-month time limit. (Partial months for diversion services do not count toward the CalWORKs time limit.)

Federal TANF 60-Month Time Limit: The diversion service amount for the utility bills is for future needs beyond four months and is not excluded from the federal TANF definition of "assistance." Therefore, the payment for the utilities is considered "assistance" and counts toward the TANF 60-month time limit. The month of January is counted toward the individual's TANF 60-month time limit and other TANF requirements also apply. The past debt for his truck is excluded from the federal TANF definition of "assistance" and is not counted toward the TANF time limit. Any cash aid payments provided, if the recipient returns to aid, are counted toward both the TANF and CalWORKs 60-month time limits.

DIVERSION PAYMENTS THAT MEET FEDERAL DEFINITION OF ASSISTANCE

If a diversion payment meets the federal definition of “assistance,” all TANF requirements must be met. In addition to time limits, federal work requirements must be met, child support collection must be initiated, and counties must include these cases in their data reporting. State law and regulations have given counties the flexibility to design their CalWORKs diversion program, and counties have existing instructions for meeting TANF work requirements, child support collection, and data reporting. Therefore, no additional instructions will be issued for these TANF requirements. If a county has provided diversion services that meet the federal definition of “assistance,” please contact the appropriate staff person (from the Fiscal Policy Bureau, Employment Bureau, Data Operations Branch, and Office of Child Support Services) if you need help in making the necessary changes to meet TANF requirements. If a county plans to provide a diversion service that meets the federal definition of “assistance,” and would like additional guidance, you may contact the CalWORKs Eligibility Program Analyst (see list below) and/or any of the organizations mentioned above, as necessary.

EFFECTIVE DATE OF DIVERSION PROGRAM

For California recipients, the diversion program became effective January 1, 1998. For all other states, the effective date of a diversion program will depend upon the state implementation date of the TANF program.

STATE-ONLY FUNDED PROGRAMS FOR CalWORKs

State-only funded programs for CalWORKs are programs that are not funded with federal funds. Individuals in the California state-only funded programs will accrue months toward the CalWORKs 60-month time limit, but they will not accrue months toward the federal TANF 60-month time limit. The following programs are CalWORKs state-only funded programs:

- Separate State Program for Two-Parent Families – effective October 1, 1999
TANF funds are not used to provide CalWORKs cash assistance or welfare-to-work services, including child care and other supportive services, to those two-parent families defined in ACL 99-54.
- Segregated State Program for Legal Immigrants – effective December 1, 1996
Legal immigrants, who entered the U.S. on or after August 22, 1996, are not eligible for federally funded assistance for the first five years after the individual’s date of entry. These individuals will be state-only funded for the first five-year period. After the five-year period, they are eligible for federally funded assistance.

Other states may also have state-only funded programs in which federal TANF funds are not used. Recipients who participate in these programs will not be subject to the federal TANF 60-month time limit and, therefore, will not count toward the CalWORKs limit. Counties must always contact the state to determine the number of TANF months used.

DIVERSION SERVICES AGREEMENT AND COVERSHEET - CW 88

Attachment I provides you with a two-page form that describes CalWORKs diversion services and illustrates how the diversion period is determined. The form is designed to inform an applicant about diversion services, and for an applicant to certify that he/she understands the requirements for the diversion service that is agreed upon with the county. Counties shall include the form in their diversion procedures. The eligibility worker is required to complete the portion of the form that indicates the value of the diversion service and the start and end dates of the diversion period.

FORMS DESIGNATION AND MODIFICATION OF FORMS

County Welfare Departments (CWDs) are advised that the forms designation for the CW 88 is "Required Form-Substitute Permitted." CWDs must obtain prior approval from the California Department of Social Services (CDSS) before implementing a modification or substitution of this form.

CAMERA-READY COPIES

After you receive a copy of the English form, please allow six to eight weeks for the form or message to be translated and mailed to your CalWORKs Forms Coordinator. Language Translation Services (LTS) will mail camera-ready copies of Spanish, Russian and Asian (Cambodian, Chinese, and Vietnamese) translated forms as soon as they become available. You do not need to initially request forms or messages from LTS. To order additional camera-ready forms or messages in Spanish, Russian and Asian languages fax your request to LTS at (916) 657-3429 or e-mail your request to lsu@dss.ca.gov.

For a camera-ready copy and/or an additional copy of an English form, please call Forms Management Unit (FMU) at (916) 657-1907 or CALNET at 437-1907. If your office has Internet access, you may obtain various forms from the CDSS web page at <http://www.dss.cahwnet.gov>. FMU is currently in the process of making forms available on the Internet. If the name, mailing address or e-mail address of your CalWORKs Forms Coordinator changes, please contact FMU by telephone at (916) 654-1282 or by e-mail to fmu@dss.ca.gov.

TRANSLATIONS

Your CalWORKs Forms Coordinator is to distribute forms and NOA messages to each program and location. Each county shall provide bilingual/interpretive services and written translations to non-English or limited English speaking populations as required by the Dymally Alatorre Bilingual Services Act (Government Code Section 7290 et seq) and by the state regulations in Manual of Policies and Procedures (MPP) Division 21, Civil Rights Nondiscrimination, Section 115. Among other things, this regulation section includes requirements for providing forms in the applicant's or recipient's primary language.

If you have any questions regarding this letter or need additional information, please contact the following persons:

- This ACL and 60-month time limits – Charissa S. Miguelino at (916) 657-3665.
- Diversion – Matthew Hill at (916) 654-6127.
- Diversion Services Agreement and Coversheet – Terry Mallin at (916) 653-8395.
- State Program for Two-Parent Families – Randy Shiroi at (916) 654-1527.
- Legal Immigrants – Kevin Campbell at (916) 654-2130.

Sincerely,

Original Signed by

Bruce Wagstaff

on 7/21/00

BRUCE WAGSTAFF

Deputy Director

Welfare to Work Division

Attachment

c: CWDA
CSAC