

## DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



June 4, 2001

ALL-COUNTY LETTER NO. 01-32

TO: ALL COUNTY WELFARE DIRECTORS  
 ALL COUNTY WELFARE-TO-WORK  
 COORDINATORS  
 ALL COUNTY CIVIL RIGHTS COORDINATORS  
 ALL COUNTY CHILD CARE COORDINATORS

SUBJECT: LIMITED-ENGLISH-PROFICIENT INDIVIDUALS AND THE  
 ASSESSMENT PROCESS IN THE CALIFORNIA WORK  
 OPPORTUNITY AND RESPONSIBILITY TO KIDS (CalWORKs)  
 WELFARE-TO-WORK (WTW) PROGRAM

REFERENCE: ALL-COUNTY INFORMATION NOTICE (ACIN) I-70-99  
 ALL COUNTY LETTER (ACL) 00-30

REASON FOR THIS TRANSMITTAL

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

All County Letter (ACL) No. 00-30, dated May 4, 2000, provided guidance and policies to assist limited-English-proficient (LEP) CalWORKs Welfare-to-Work (WTW) participants to obtain appropriate appraisal and job search services. The purpose of this ACL is to provide guidance and policies to counties to ensure that LEP participants receive the same level of services as other WTW participants during the assessment process and that they are assigned to welfare-to-work activities that meet their specific needs.

English language skill can be a significant factor in the ability to obtain higher wages and achieve self-sufficiency, since the inability to speak and understand English can sometimes limit an individual's employment and promotional opportunities. Thus, assessments of, and the subsequent development of welfare-to-work plans for, LEP participants are crucial aspects in serving this population.

Because the amount of information in this ACL is extensive, and involves legal requirements, it is recommended that counties train all staff and contractors involved with the assessment and plan development processes on the contents of this letter.

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Additionally, counties should provide a copy of this letter to their contractors that are providing services to CalWORKs WTW participants.

#### Division 21 Applicability to Assessment

MPP Handbook Section 42-711.511 reminds counties that the regulations regarding nondiscrimination (MPP Chapter 21-100) and the communication needs of LEP individuals apply to WTW activities and services, including supportive and post-employment services. MPP Section 21-115 requires that "County Welfare Departments shall ensure that effective bilingual/interpretive services are provided to serve the needs of the non-English-speaking population and individuals with disabilities." This provision also applies to disabled LEP individuals.

MPP Section 21-109 provides that county welfare departments may not, on the basis of race, color, national origin, religion, political affiliation, marital status, sex, age or disability, directly or through other arrangements (including by use of contractors), provide aid, benefits, or services to an individual or group different from that provided to others unless those benefits and assistance provided are as effective as those provided to others. Counties also may not engage in practices that have the effect of discriminating, regardless of intent, and/or result in assignments based on stereotypes of skills and interests based on race, gender, national origin, disability, or other classifications specified in Division 21. LEP participants must be treated as individuals, and not on the basis of stereotypes and generalizations. Assignments to WTW activities must be based on an individualized assessment, not on assumptions based on an LEP participant's race, gender, or national origin.

Additionally, MPP Section 21-115 requires that bilingual/interpretive services be provided promptly and without undue delay, and establishes the standard CWD's shall use for the assignment of qualified bilingual employees to public contact positions in each program. MPP Section 21-115 requires that when specific non-English language cases equal or exceed five percent of the total CalWORKs caseload of the local welfare office, the county must hire qualified bilingual employees for public contact positions. If the percentage of specific non-English cases in a local welfare office is less than five percent of the total CalWORKs cases, the requirement to provide bilingual services may be met through paid interpreters, qualified bilingual employees, or qualified employees of other agencies or community resources, who can effectively communicate with LEP participants (MPP Section 21-115.15).

Therefore, in accordance with MPP Section 21-115, assessments of LEP participants must be conducted in a language that the individual understands through appropriate and effective bilingual/interpretive services or translations and in a culturally sensitive manner necessary to communicate fully and effectively with the participants. Advance

arrangement for provisions of these services, such as formal arrangements with outside interpreters or contracts with language lines, should be made to avoid undue and unreasonable delays. Cultural sensitivity refers to activities conducted by a culturally sensitive person who possesses knowledge and understanding of cultural environments, religious beliefs, life styles, self-concepts, and language characteristics of the population they serve. Such knowledge is necessary to effectively communicate and provide the same level of service being provided to the welfare population at large. In addition to possessing language skills and cultural sensitivity, these bilingual individuals should also have assessment skills and knowledge of CalWORKs.

County welfare departments must ensure that their contractors provide meaningful access to WTW activities and services. Provisions of MPP Section 21-115 apply regardless of the counties' use of contractors. If the county chooses to use contractors for assessment, it must ensure that LEP participants receive appropriate bilingual or interpretive services and that all other Division 21 requirements are met.

Forms and other written material that the county uses for the provision of WTW services must be available at all local offices and offered to an applicant/recipient in the individual's primary language, when translated versions of these materials are provided by CDSS. Any county-translated forms should also be available and offered at all local offices. When written materials are not translated by CDSS, counties must either provide translated forms and written materials in the LEP participant's requested language or provide effective interpretive services. Counties must also document the provision of these services in the participant's case file. CDSS is reviewing the impact of recent federal guidance on provisions in state and federal law regarding the translation of written materials and will provide additional guidance on this issue if necessary.

### Referrals to Assessment

Assessment generally is the next activity to which CalWORKs participants must be assigned after completion of the initial period of job search, if they are unable to find unsubsidized employment for sufficient hours to meet their WTW participation requirements. Referrals to assessment also must be made if the counties have made an individualized determination that job search will not be beneficial as the first activity or the period of job search must be shortened because it is not likely to lead to employment (MPP Section 42-711.551 and ACL 00-30). Once it is determined that assessment is the next appropriate activity, CalWORKs participants, including LEP individuals, must be referred to assessment without undue delay.

### Content of the Assessment

The assessment is an individualized inventory and evaluation of an individual's skills, needs, interests, and abilities that, together with available CalWORKs services and resources, is intended to help CalWORKs recipients obtain a job and move toward self-sufficiency. Because the assessment is the basis for discussion and agreement between the county and the CalWORKs participant in the development of the WTW plan, effective communication between the assessor and participant in a language the participant understands is critical.

When validated non-English tools are not available for the assessment of LEP participants, counties should use a bilingual process that will address the same issues as the English assessment tools, and should do so in a culturally-appropriate manner.

The assessment of LEP participants, like that of all CalWORKs participants, must meet the minimum requirements specified in MPP Section 42-711.554 and in addition should include, at a minimum, the following individualized information for an adequate assessment of LEP participants:

- a) Work history and inventory of the participant's employment skills, knowledge, interests and abilities, including an inventory of their skills, knowledge, and abilities that were acquired in the country in which they were raised, educated, or had prior work experience.
- b) The LEP participant's educational history and present educational competency level. Workers should assess for English language and primary language competency with regard to both literacy and verbal skills and the need for English-as-a Second Language (ESL) courses to properly determine an appropriate assignment.
- c) The participant's needs, including the need for supportive services in order to obtain the greatest benefit from the employment and training services offered under CalWORKs.
- d) An evaluation of the chances for employment given the participant's current skills and the local labor market conditions.
- e) Local labor market information.

- f) Physical limitations or mental conditions that limit the participant's ability to obtain employment or to participate in the WTW activities; other personal history related to the individual's ability to participate or need for services (for example, mental conditions related to traumatic episodes, abuse, or torture).
- g) Identification of available resources to complete the WTW plan for the particular CalWORKs participant.

### Third-Party Assessments

The rules on bilingual workers, translations, and interpretive services that are applicable to assessments of LEP participants (see Page 2 above, Division 21 Applicability to Assessment) also apply to third-party assessments.

### Best Practices in Administering Assessments

Counties should take into consideration that there are individual differences among LEP participants and that different assessment approaches may be appropriate. For example, individuals who moved to the United States from more agrarian and less technological societies may need to be assessed differently than individuals from more technological societies. Counties may need to conduct oral interviews rather than use written tools to obtain information from particular participants. However, care must be taken that such assessments are not performed in a discriminatory manner and that the same issues and objectives of assessments for English speakers are addressed. Counties may wish to consult with members of the appropriate community and assessment experts in developing appropriate assessment tools with which LEP participants can be reviewed at different intervals to assess the progress they are making toward meeting their WTW goals.

The following are several examples of practices that counties may wish to use in administering assessments to the LEP population.

- Expanding the assessment process beyond solely evaluating an individual's English proficiency at the assessment stage, and/or solely through an assessment tool. As part of the process, obtaining indicators of an individual's English language capabilities by also having the assessor observe and evaluate the individual during their participation in appraisal, assessment, and/or job search.
- Incorporating English and native language literacy and proficiency tests as part of a consistent set of testing instruments to be used by all individuals administering vocational assessments in the county.

- Pairing an ESL instructor with a vocational assessor, or using assessors who are also ESL instructors, to administer a comprehensive individualized assessment. Job developers with experience in placing LEP individuals can also be included in the assessment process.
- Referring the LEP participant to culturally sensitive contractors and/or culturally sensitive workers who possess knowledge and understanding of cultural environments, religious beliefs, life styles, self-concepts and language characteristics of the LEP participant. If the county chooses to use contractors, it must ensure that LEP individuals receive appropriate bilingual or interpretive services.

#### Development of the Welfare-to-Work Plan

A WTW participant shall work with the county to develop and agree on an individualized WTW plan based on the assessment (MPP Section 42-711.553). If the county determines that it is necessary and appropriate for the LEP participant to participate in ESL to remove barriers to employment, it must assign the client to ESL (MPP Section 42-711.634). Counties should also develop written standards specifying the factors that they will consider in determining whether ESL is appropriate and necessary for the removal of barriers to employment. Such factors could include, for example, English competency level, skills of the participant, and whether available jobs in demand occupations in the local areas that could lead to self-sufficiency are suitable to the individual's level of English language proficiency, etc. The county should also evaluate whether ESL or Vocational ESL (VESL) alone, or in combination with part-time employment or other appropriate training activities, is the most effective approach to assist the participant to acquire sufficient English-language and literacy skills to enhance his/her ability to find self-supporting employment, and document or reflect this information in the WTW plan.

Because the WTW plan is an important tool to guide individuals toward achieving self-sufficiency, it must contain sufficient details about the programs and services, length of participation, and other information necessary to assist in the attainment of the participants' WTW plan goals. At a minimum, the WTW plan must include the specific activities and services designed to move the participant into employment and toward self-sufficiency (MPP Sections 42-711.63). With regard to the WTW plan, the county must comply with the Division 21 translation/interpretive services requirements that were discussed above. CDSS has translated CalWORKs WTW Plan forms (WTW 1, WTW 2, and WTW 3) into Spanish, Vietnamese, Russian, Cambodian, and Chinese, and counties are required to use these translated versions.

The WTW plans also must be written in clear and understandable language and be in an easy-to-read format (MPP Section 42-711.611). Therefore, it is recommended that

abbreviations or acronyms, commonly used and understood by county staff and service providers, be avoided. During the development of the WTW plan, counties should provide all CalWORKs participants, including LEP participants, with information that can help broaden their awareness of employment possibilities, i.e., information about non-traditional employment for women, microenterprise development, and career counseling.

Although relevant to all participants, because of the additional barriers faced by LEP recipients, it is very important that counties inform participants of the 18-24 months training time-period, explore employment and training goals, and discuss the wage and promotional opportunities related to the potential employment goals. This information is necessary for the participant to make a decision regarding employment options, self-sufficiency, and use of the time on aid.

#### Adequate Range of Educational and Training Programs

Counties must offer a range of CalWORKs programs and services to LEP participants so that LEP participants have meaningful access to employment and training programs, as necessary to help them meet their individual service needs and find self-supporting work in the local labor market.

In developing an adequate range of services for LEP participants, counties should address the fact that LEP participants have individualized needs. For example, LEP participants who are not literate in either their primary language or English, and who have worked only in unskilled jobs, have needs different from LEP participants who are literate in their primary language and have worked in a skilled occupation. As for all CalWORKs participants, assignments of LEP participants to education and training programs must be based on an individualized assessment. For some LEP participants, participation in short-term, stand-alone English-language immersion training programs may be necessary, before they are referred to WTW training activities. However, for LEP participants who lack basic job skills, concurrent enrollment in ESL or VESL and a skills training program may be the most appropriate WTW assignment.

Counties may wish to consult with certified experts in the field of language and literacy development to establish guidelines for determining which kinds of programs would be most effective for different LEP participants.

#### Best Practices in Education and Training Programs

Short-term, stand-alone immersion-style programs may be effective for individuals with very limited English language skills, even if they possess employment skills. However, care should be taken so that LEP participants are not placed in language programs that are open-ended and in which the performance of the participants is not reviewed periodically.

VESL programs may be another effective means of providing specialized language training in an ESL context for LEP participants who have achieved the requisite level of English proficiency to attend those programs. If VESL programs provide only vocational vocabulary, they may be appropriately paired with skills training.

Regardless of English proficiency or literacy levels, Functional Contextual Education (FCE) models, which teach functional ESL in the context of also teaching job or other practical skills, are an effective means of concurrently developing the English language and job skills that are necessary for self-sufficient employment.

As with all CalWORKs activities, counties should continue to develop programs in conjunction with other WTW partners, such as education and training institutions, to ensure that counties provide activities best tailored to meet the needs of the local recipient population and labor market with the goal of assisting participants in achieving self-sufficiency. For LEP participants, this means that counties should develop and continue to develop intensive ESL, VESL, FCE programs, and other programs that will facilitate both English education and skill development for LEP participants.

In general, all CalWORKs participants, including LEP participants, should be assigned to appropriately designed programs that would best position them to attain marketable skills and end welfare dependency within allowable CalWORKs WTW activity time frames. To further this goal, counties may wish to regularly review the progress of LEP participants in their assigned activities to ensure that the programs or services continue to be appropriate.

#### Work Experience Assignments

In accordance with Welfare and Institutions Code Section 11322.7(b), the WTW plan must not require job search and work experience to the exclusion of other CalWORKs activities. Therefore, if the assessment indicates that work experience (WEX) is an appropriate activity for an LEP participant, counties should consider assigning the participant to concurrent or integrated participation in ESL or VESL, which can assist to improve his/her English proficiency and improve his/her ability to find self-supporting employment. As with all participants, WEX and community service are appropriate assignments if they provide LEP participants with useful employment skills. Counties must periodically review WEX and community service placements to ensure that they continue to assist participants to meet their training goals [MPP Sections 42-716.111(d)(1)(A) and 42-716.42].

Screening, Evaluation, and/or Assessment Tools Related to Mental Health, Substance Abuse, and/or Domestic Abuse Services

CalWORKs regulations provide, under certain conditions, for referrals to mental health, substance abuse, and/or to domestic abuse services (MPP Sections 42-711.56, 42-711.57, and 42-715, respectively). The regulations also provide for an evaluation of a suspected learning disability or medical problem (MPP Section 42-711.58). As with the third-party assessment, the rules on bilingual workers, translations, and interpretive services that are applicable to assessments of LEP participants (see Page 2 above, Division 21 Applicability to Assessment) also apply to the tools that are used to screen, evaluate, assess, and assign LEP participants to the services mentioned above. Counties must, therefore, ensure that LEP participants have access to an adequate range of linguistically and culturally-appropriate services and that screening, evaluation and assessment, and counseling/treatment services are comparable, to the extent possible, to those services offered to other CalWORKs participants.

Reappraisals

Reappraisals conducted pursuant to MPP Section 42-711.7 must also meet the requirements for bilingual/interpretive services specified in MPP Section 21-115. During the reappraisal of LEP participants, the evaluation of extenuating circumstances should include a review of language and cultural barriers. If extenuating circumstances are determined to exist, the LEP participant should be assigned to appropriate training and educational activities to address such circumstances.

We hope that these guidelines assist you in your efforts to serve the LEP population more effectively. Given the limitations on the time that recipients can receive cash aid under CalWORKs, assisting individuals who have language barriers, in addition to other barriers to employment, to receive services that are provided in a manner that they understand, is crucial to their ability to find employment and to attain self-sufficiency.

If you have any questions regarding this letter, please call Milt Yee, Employment Bureau, at (916) 657-3399. For technical assistance regarding Division 21, please contact the Department's Civil Rights Bureau at (916) 654-2107.

Sincerely,

***Original Document Signed By  
Bruce Wagstaff on 6/4/01***

BRUCE WAGSTAFF  
Deputy Director  
Welfare to Work Division