

42-205 DETERMINING OWNERSHIP OF REAL AND PERSONAL PROPERTY 42-205

.1 Declaration of Property Ownership

The applicant's declaration of the property he and/or his spouse own is considered sufficient proof of property ownership unless there is information indicating probable ownership of property other than that declared. In the presence of such information, the facts as to ownership must be determined from appropriate records, such as recorder's records, bank deposits and withdrawals and/or through affidavits of the applicant or recipient and other individuals concerned.

.2 Title Shared with Others

There is a presumption that those who share title have equal rights to possession, control and use of the property but the presumption may be refuted by evidence to the contrary. The source and amount of funds invested in the property or the facts around the inheritance, if it was acquired in this way, must be determined in order to arrive at the share which the applicant or recipient and/or his spouse actually owns.

.3 Community Property

Each spouse is presumed to own a one-half interest in community property, regardless of which spouse holds the property. All property held in the name of the spouse of a married person is presumed to be community property unless evidence establishes it to be separate property. Exception: Burial trusts and interment plots are considered the separate property of the spouse who is to be the beneficiary or user.

.4 Child Lives with Mother and Stepfather

When a child lives with his mother and stepfather, each spouse is presumed to own a one-half interest in property held by either spouse, unless this presumption is refuted by evidence which established it to be the separate property of one spouse.

| .5 Sponsored Noncitizens

| For purposes of this section, "sponsored noncitizen" applies to noncitizen who are sponsored by an individual(s) (see Section 43-119.2).

| .51 The resources of the noncitizen's sponsor and the resources of the sponsor's spouse who lives with the sponsor as provided in Section 43-119.22, shall be deemed to be the sponsored noncitizen's resources.

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- .52 Determine the total value of real and personal property of the sponsor and the sponsor's spouse as if they were applying for aid (for real property, see Section 42-215.1; for personal property and vehicles, see Food Stamp regulations at Manual of Policies and Procedures Section 63-501.5);

- .53 If a person is the sponsor of more than one noncitizen, divide the amount determined in Section 42-205.52 above by the number of sponsored noncitizens receiving CalWORKs cash aid, including the number of sponsored noncitizens in the applicant's AU. This amount shall be deemed to be the resources of each applicant or recipient who is a sponsored noncitizen. If the deemed resources alone or in combination with other property of the AU exceed the property limits described in Section 42-207, ineligibility results, but only for the sponsored noncitizen(s).

- .54 These resources shall not be considered as the resources of other applicants or recipients in the family who are not sponsored noncitizens, unless such resources are actually available to these other persons, e.g., the sponsor establishes a trust fund that is available to meet the current needs of the family.

.6 Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, 11008.135, 11155, 11155.1, 11155.2, and 11257, Welfare and Institutions Code; and 8 U.S.C. 1631(a).

42-207 **PROPERTY WHICH MAY BE RETAINED BY AN APPLICANT** **42-207**

- .1 An applicant or recipient AU may retain countable resources in an amount equal to the amount allowed in the Food Stamp regulations at Manual of Policies and Procedures Section 63-1101. The value of real and personal property including resources not excluded elsewhere by regulations, owned by a CalWORKs FG/U family shall not exceed the Food Stamp resource limit. If the limit is exceeded, the family or child is ineligible.

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- .2 Food Stamp regulations at Manual of Policies and Procedures Section 63-1101.1 allows retention of \$3,000 for an AU which includes at least one member aged 60 or older or a disabled member, and \$2,000 for all other AUs. These limits may change in accordance with changes in Food Stamp resource limits.

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NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, 11155, 11155.2, and 11257, Welfare and Institutions Code; and 7 U.S.C. 2014(g)(1).

42-209 **DIFFERENTIATION OF PROPERTY AND INCOME** **42-209**

- .1 Some payments may be considered property, income, or a combination of both. For the differentiation of such payments, see Section 44-105.
- .2 Nonrecurring lump sum payments, which are not recurring regular income and usually nonrecurring in regard to amount and/or source, shall be treated as property in the month of receipt and any subsequent months.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11265.1, 11265.2, 11265.3, and 11450.5, Welfare and Institutions Code.

42-211	PROPERTY ITEMS TO BE INCLUDED IN EVALUATING PROPERTY WHICH MAY BE RETAINED	42-211
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.1 Real Property to Be Included

.11 In addition to the items included in the definition of real property in Section 42-203.1, the following are to be evaluated as real property:

- a. Cemetery property held for profit.
- b. Stocks in a water company not appurtenant to the land in furnishing water for agricultural purposes.
- c. The items defined in this section which are owned (see Section 42-203) by an applicant or recipient are subject to the limits set forth in Section 42-207, unless specifically excluded by Section 42-213.1.

.12 Real property owned by an applicant or recipient includes real property which:

- a. secures any of his debts.
- b. is being purchased by him under a contract of sale, or mortgage and/or deed of trust.
- c. is being sold by him under contract of sale, but no contract has actually been signed.
- d. is being held by him with retention of life estate.
- e. is held in trust for him and is available to him for disposition or use.
- f. is held for him in an undistributed estate and is available for his use prior to distribution.
- g. is being sold by him and is held in escrow.

.2 Personal Property to Be Included: The county shall determine personal property and vehicles to be included in evaluating property which may be retained in accordance with methods established under the Food Stamp regulations at Manual of Policies and Procedures Sections 63-501.1 and .2).

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11155 (Ch. 270, Stats. of 1997), Welfare and Institutions Code.

42-213 **PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY** **42-213**
WHICH MAY BE RETAINED

.1 Real Property to Be Excluded

.11 The following items are to be excluded in evaluating real property:

- (a) Real property held in trust if the child or parent does not have control of the trust of which he is the beneficiary.
- (b) The separate and community share of real property of a parent who has surrendered full custody of his child pursuant to a court order.
- (c) The separate and community share of real property of a parent who has relinquished his child for adoption.
- (d) The separate and community share of real property of the father of a child who is not married to the mother and the parents are not maintaining a home together. Exception: If the father has legitimized the child under Section 230 of the Civil Code, his property is included whether or not the parents are maintaining a home together.
- (e) The separate and community share of real property of a stepfather.
- (f) Property purchased with funds received under Title I or Title II of the Economic Opportunity Act when such funds were excluded from consideration as income or resources. This exclusion does not extend to income or profits from such property.
- (g) An Indian's interest in land held in trust by the United States Government is excluded in evaluating real property which is subject to the monetary limits as set forth in Section 42-207.
- (h) The separate and community shares of real property of the absent parent which are unavailable to the CalWORKs family or child (i.e., the family or child does not have possession or control of the property so that the property may be used to meet current needs). Such unavailable property is to be excluded in cases where the child is living apart from his/her parent or parents. The exclusion applies to a child in foster care regardless of whether his/her parents are maintaining a home together.

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(SAR) (1) An availability determination of the separate community shares of real property of an absent parent must be made by the county as part of the initial eligibility determination. After the initial eligibility determination, the county shall only make a determination when the county receives information on the SAR 7 or SAWS 2 that there has been a change. If the county receives a voluntary mid-period report of such a change, this information will only be reevaluated when the following semi-annual report is processed.

(AR/CO) An availability determination of the separate community shares of real property of an absent parent must be made by the county as part of the initial eligibility determination. After the initial eligibility determination, the county shall only make a determination when the county receives information on the SAWS 2 that there has been a change. If the county receives a voluntary mid-period report of such a change, this information will only be reevaluated when the following annual report is processed.

(i) The real property in which a CalWORKs recipient has an ownership interest and which is considered in an SSI/SSP resource evaluation.

(1) The total value of property owned separately by the CalWORKs recipient who is either the spouse or parent of the SSI/SSP recipient and resides in the same household.

(2) The total value of property owned jointly between the CalWORKs recipient and the SSI/SSP spouse or child when they reside in the same household.

(j) The separate and community share of real property of an APSB recipient (see Section 42-205.3, Community Property).

(k) A maximum of one burial plot for each member of the Assistance Unit. For purposes of this section, a burial plot is defined as an interment space, crypt or niche intended for the interment of the applicant or recipient.

42-213 **PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY** **42-213**
WHICH MAY BE RETAINED (Continued)

- .12 Real property, not otherwise excluded, that the assistance unit is making a good faith effort to sell may be exempt from consideration in the resource limit described in Section 42-207 for a period of no more than nine consecutive months. Any six-month period, which was the maximum period permitted by these regulations as they were effective prior to January 1, 1987, ending on or after December 31, 1986 may be extended to nine months at the recipient's request.
- .121 As a condition of receiving aid during the exempt period and prior to the county granting aid, the applicant/recipient shall:
- (a) Grant the county a lien against the property which shall be payable to the county when the property is sold (see Section 42-213.122), and
 - (b) Agree in writing to begin immediately to make a good faith effort to sell the property. See Section 42-213.123 for what constitutes a good faith effort. If the applicant/ recipient elects not to sell the property at any time prior to the expiration of the nine months, the property shall no longer be exempt from consideration in the resource limit.
- .122 The county shall have the lien notarized (notarization by the county designated notary is acceptable) and then promptly record the lien in the county recorder's office where the property is located. The lien document shall:
- (a) Clearly show that the purpose of the lien is to repay the county the amount of repayable aid received during the exempt period. See Section 42-213.124. The lien, in itself, shall not require the sale of the property.
 - (b) Contain a legal description of the property that the lien is against. A legal description of the property can be obtained from the tax assessor's rolls of the county where the property is located.
 - (c) State the name(s) of the owner(s) of the property as it appears on the county assessor's rolls. The lien shall be binding on the applicant/recipient and his or her heirs, executors, administrators, and assignees.

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42-213 **PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY** **42-213**
WHICH MAY BE RETAINED (Continued)

- .123 In order to make a good faith effort to sell the property, as a condition of receiving aid during the exempt period, the applicant/recipient shall, at a minimum, either:
- (a) List the property for sale with a licensed real estate broker at the property's approximate fair market value (see Section 42-213.123(c)) and be willing to negotiate the terms of the sale with potential buyers, or
 - (b) Make an individual effort to sell the property which shall include all the following:
 - (1) Advertising once a week in at least one publication of general circulation that the property is for sale. When an AU becomes resource eligible it will no longer be required to use out-of-pocket expenditures to market the property but shall continue to comply with Section 42-213.123(a). [Resource eligibility exists when the equity value of the real property (see Section 42-213.124) plus all countable resources is less than the property limits described in Section 42-207].

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(A) Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

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- (2) Place a sign on the property indicating that the property is for sale. Whenever possible, the sign shall be visible from the street.
 - (3) Offer the property for sale at its approximate fair market value. See Section 42-213.123(c).
 - (4) Be willing to negotiate the terms of the sale with potential buyers and respond to all reasonable inquiries about the property.
- (c) For purposes of this section, the fair market value of the property shall be the applicant/recipient's choice of:
- (1) The assessed value of the property, or

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- (2) A valuation of the market value of the property obtained by the applicant/recipient from a licensed real estate broker.
 - (3) In exceptional circumstances, such as when the property is located in a remote area and it is impossible or impractical to obtain a valuation, and the applicant/ recipient believes that the assessed value is too high or too low, the county and the applicant/recipient may agree on the market value based upon other available information.
- .124 Any aid paid during the nine-month period or until the property is sold, whichever comes first, shall be considered repayable aid at the time of the sale of the property and shall be collectible from the net proceeds of the sale of the property. The amount of repayable aid shall be determined as follows:
- (a) If the net proceeds from the sale of the property plus the value of other countable real and personal property at the beginning of the exempt period are less than the resource limit specified in Section 42-207, there shall be no repayable aid.
 - (1) Property liens established to repay CalWORKs grants shall be counted as allowable encumbrances when determining the equity value of real property for eligibility purposes.
 - (b) If the amount of aid paid during the exempt period exceeds the net proceeds of the sale of the property, then the amount of repayable aid is the amount of the net proceeds.

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- (1) Example: The county did not count the value of a lot with a house that was owned but not occupied by an assistance unit in the resource limit as allowed under this section. At the end of nine months, the property sold for \$29,000 and the family had received \$3,960 in aid payments. The net proceeds of the sale were determined to be \$3,000. The amount of repayable aid is \$3,000 because the net proceeds were less than the amount of aid paid during the exempt period.

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WHICH MAY BE RETAINED (Continued)

(c) The net proceeds of the sale are determined by subtracting from the gross amount of the sale the costs verified by the county to be directly related to the sale of the property, such as:

- (1) Loans and liens of the seller that are secured by the property,
- (2) Title insurance fees paid by the seller,
- (3) Brokers fees paid by the seller,
- (4) Prepaid interest or loan processing fees (points) paid by the seller,
- (5) Appraisal fees paid by the seller,
- (6) Fees paid by the seller to advertise the property, i.e., newspaper aids and for sale signs.

.125 The county shall inform the applicant/recipient at the time this exemption is granted that it is time-limited; and, at the end of nine months the assistance unit will be ineligible if the property has not been sold and the combined value of real and personal property continues to exceed the property limit specified in Section 42-207.

.126 The county shall retain sufficient documentation to determine the amount of repayable aid that will be collectible when the property is sold.

(SAR) .127 If the nine month exemption period ends in the middle of a SAR Payment Period, and the property has not sold, the county must take mid-period action to discontinue the AU at the end of the month in which the exemption period ended, with timely and adequate notice (see Section 44-316.331(t)(SAR)).

(AR/CO) If the nine month exemption period ends in the middle of a AR/CO Payment Period and the property has not sold, the county must take mid-period action to discontinue the AU at the end of the month in which the exemption period ended, with timely and adequate notice (see Section 44-316.331(t)(AR/CO)).

.2 Personal Property and Vehicles to Be Excluded: The county shall determine personal property items and vehicles to be excluded in evaluating property in accordance with methods established under the CalFresh Program (see CalFresh regulations at Manual of Policies and Procedures Sections 63-501.3, .52, and .53) except as noted below.

.21 401(k), 403(b), 457, 529, IRA and ESA accounts shall be excluded for CalWORKs recipients.

.22 401(k), 403(b) and 457 accounts shall be excluded for CalWORKs applicants.

.23 Restricted accounts shall be excluded for CalWORKs recipients.

.231 Restricted Accounts

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WHICH MAY BE RETAINED (Continued)

(a) General

An AU which includes a recipient shall be allowed to retain cash reserves in one or more restricted accounts at a financial institution. There shall be no limit to the amount of money that can be saved in a restricted account.

(1) Additional Funds

The funds shall be in addition to the \$2,000 property limit specified in Section 42-207.2.

(b) Written Agreement

Before an account can be designated as "restricted," the caretaker relative shall sign an agreement with the county welfare department which sets forth the requirements, restrictions and penalties specified in Section 42-213.231.

(1) Advice

The written agreement shall include a statement which advises recipients to first retain resources close to the \$2,000 limit to pay for unexpected expenses or emergencies before they enter into a written agreement.

(c) Account Information

The AU shall provide verification to the county of the following information for each account within 30 calendar days from the date of the written agreement. Failure to comply will result in termination of the agreement.

(1) Names of Persons On the Account(s)

Names of persons as shown on the restricted account;

(2) Institution

Name and address of the financial institution;

(3) Number

Account number; and

(4) Balance and Activity

Account balance and activity since the date the agreement was signed.

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(d) Specific Purpose

The funds must be retained for one or more of these specific purposes:

(1) Home

purchase of a home;

(2) Education or Training

any education or vocational training expenses of the account holder or any person who is claimed or could be claimed by the account holder as a dependent for federal income tax purposes;

(3) Business

start up of a new business; or

(4) Homelessness Prevention

Costs associated with securing permanent rental housing or to make rent payments to overcome a period of homelessness.

(e) Separate Account

The AU must establish and maintain a restricted account separately from any other accounts.

(f) Interest Exemption

The county shall exempt interest payments for purposes of determining CalWORKs eligibility and grant amount when the interest is deposited directly into the account by the financial institution.

(1) Direct Receipt

The county shall determine that interest which is not deposited directly into the restricted account is a nonqualifying withdrawal.

(2) Erroneous Receipt

When interest is not deposited directly into the account due to an error caused by the financial institution, the AU is allowed 30 calendar days from the date of receipt to deposit the interest into the restricted account.

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(A) Failure to deposit the interest within 30 calendar days shall result in a determination that a nonqualifying withdrawal has occurred, unless good cause exists for exceeding the 30-day limit as specified in Section 42-213.231(j).

(g) **Qualifying Withdrawal**

The AU is allowed 30 calendar days from the date of a withdrawal to expend funds for one or more of the following expenses:

(1) **Purchase of a Home**

Expenses associated with the purchase of a home that will be the principal residence of the AU.

(A) These expenses include, but are not limited to, deposits, fees, down payment, principal payment, repairs, fixtures and closing costs.

(B) Expenses for furniture and household goods are not allowable.

(2) **Education or Training**

Expenses associated with any education or vocational training for the account holder or any person who is or could be claimed by the account holder as a dependent for federal income tax purposes.

(A) These expenses include, but are not limited to, the following:

1. fees, tuition, books, school supplies, equipment, special clothing needs, student housing, meals, transportation costs to and from school, child care services necessary for school attendance.

(3) **Start Up of a New Business**

Business expenses that are directly related to the start up costs of a new business.

(A) Allowable expenses shall include, but are not limited to, the following:

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1. purchase and maintenance of capital equipment, uniforms or other protective or required clothing and shoes; tools; inventory; payments on loan principal and interest for capital assets or durable goods; rent for office or floor space and associated utilities; shipping and delivery costs; employee salary; fees; business taxes; insurance; and bookkeeping or other professional services.

(B) Personal expenses such as entertainment are not allowable.

(4) Homelessness Prevention

Allowable expenses shall include, but are not limited to, first and last month's rent, other deposits required under the rental agreement, and credit check fees.

(5) No Expense Incurred

Funds, which are withdrawn in anticipation of an expense that does not occur or are less than anticipated, shall be redeposited into the restricted account within 30 calendar days from the date of the withdrawal.

(A) Failure to timely redeposit the funds shall result in a determination that a nonqualifying withdrawal has occurred, unless good cause exists as specified in Section 42-213.231(j).

(h) Verification

The AU shall provide verification of the following items within 30 calendar days from the date of expenditure:

(1) Date and Amount

date and amount of the withdrawal; and

(2) Receipts

a receipt, cancelled check, or signed statement from the provider of goods or services which verifies the type and the amount of expense paid.

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(i) Nonqualifying Withdrawal

The county shall determine that a nonqualifying withdrawal has occurred when:

(1) Noncooperation

the AU fails to expend funds or to provide verification of a withdrawal or expenditure within the required time limit unless good cause, as specified in Section 42-213.231(j), exists for exceeding the time limit;

(2) Nonallowable Purpose

the AU withdraws or spends the funds for purposes or expenses other than those allowed under Section 42.213.231(g); or

(3) Receipt of Interest Income

the interest payment was not deposited directly into the account by the financial institution.

(j) Good Cause

The county shall determine that good cause exists for exceeding the time limits specified at Sections 42-213.231(f)(2), (g), and (h) when any of the following situations exist.

(1) Beyond AU's Control

Circumstances exist which are beyond the AU's control.

(A) These circumstances include, but are not limited to, illness or medical emergency, failed or delayed completion of a home purchase, lack of transportation, or other extenuating circumstances found by the county.

(B) When good cause is found to exist, the AU will be allowed to fulfill the necessary requirement within a reasonable period of time based on the circumstances for the delay, as determined by the county, to avert a determination of a nonqualifying withdrawal.

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(2) AU Complies Before the Effective Date of the Notice

Good cause also exists when the AU complies with the necessary requirement before the effective date of the notice of action. In these situations, the county shall rescind the notice of action.

(k) Period of Ineligibility

When the county determines that a nonqualifying withdrawal exists, the county shall calculate a period of ineligibility.

(1) Calculation

To calculate the period of ineligibility, the county shall first determine the total amount in all of the restricted accounts immediately prior to the nonqualifying withdrawal or prior to the issuance of an interest payment when it is not directly deposited into the account by the financial institution, and:

- (A) subtract any portion which the county determines to be a qualifying withdrawal;
- (B) divide the result by the minimum basic standard of adequate care (MBSAC) for the number of persons in the AU, plus any special needs; and
- (C) round down the result to the nearest whole number for the number of months of ineligibility.

(l) Applying the Period of Ineligibility

(SAR) When the county determines that a period of ineligibility is applicable, the period of ineligibility shall begin on the first day of the month of the next SAR Payment Period following the reported nonqualifying withdrawal on the SAR 7 or SAWS 2 and continue for the determined number of months.

(AR/CO) When the county determines that a period of ineligibility is applicable, the period of ineligibility shall begin on the first day of the month of the next AR/CO Payment Period following the reported nonqualifying withdrawal on the SAWS 2 and continue for the determined number of months.

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(m) Examples

(1) Example 1:

(SAR) An AU of three is in a January through June SAR Period.

Bank balance prior to May withdrawal:	\$5,000
Amount withdrawn from account:	\$4,500
Amount used to purchase home:	\$3,000
Amount used to buy furniture:	\$1,500

(AR/CO) An AU of three has a redetermination period of July - June

Bank balance prior to May withdrawal:	\$5,000
Amount withdrawn from account:	\$4,500
Amount used to purchase home:	\$3,000
Amount used to buy furniture:	\$1,500

(A) Since the AU used a portion of the withdrawal on a nonallowable expenditure, the county shall calculate a period of ineligibility as follows:

1.

\$5,000	balance prior to withdrawal
<u>-3,000</u>	allowable expense for purchase of home
\$2,000	remainder
2. Divide the remainder (\$2,000) by MBSAC + special needs for an AU of three
(\$2,000 divided by \$1,200 = 1.66 months)
3. Round down the result to the nearest whole number (one month).
4. The AU is ineligible for one month. The AU shall be discontinued at the end of June. The AU can reapply for aid on August 1.

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Example 2:

(SAR) An AU of two in region 1 is in a January through June SAR Period and has the following property:

\$ 100 checking account
+1000 restricted account
+ 800 savings account
\$ 1900 Total

(AR/CO) An AU of two in region 1 is in a January through December AR/CO Payment Period and has the following property:

\$ 100 checking account
+1000 restricted account
+ 800 savings account
\$ 1900 Total

(A) The AU wants to buy new furniture and withdraws all of their funds from their accounts, including the restricted account, to pay for the purchases in May. The county determines that the AU made a nonqualifying withdrawal.

(B) Although the AU's total property reserve prior to the nonqualifying withdrawal is under the \$2,000 property limit, the county will calculate a period of ineligibility as follows:

1. Balance prior to nonqualifying withdrawal in May \$1000
2. Divide by MBSAC for 2 (\$968)
3. Result 1.03
4. Round down to nearest whole number 1
For number of months of ineligibility

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(n) Shortening The Period of Ineligibility

The county shall shorten the period of ineligibility when the AU reapplies for aid and the standard of need increases.

(1) An increase in the standard of need includes any increase in AU size, general increase in the MBSAC (COLA increases), or a determination that the ineligible family would be eligible for a special need item as specified in Section 44-211.

(2) Calculation

To shorten the period of ineligibility due to an increase in the standard of need, the county shall:

(A) Identify the restricted account balance used to calculate the original period of ineligibility.

(B) Identify the original MBSAC plus any special needs allocated to the ineligible family unit and multiply it by the number of ineligible months prior to the increase. Subtract the total from the amount in Section 42-213.231(n)(2)(A).

(C) Divide the result calculated in Section 42-213.231(n)(2)(B) by the increased standard of need. Round down the result to the nearest whole number.

(D) The revised period of ineligibility is the final result in Section 42-213.231(n)(2)(C) plus the number of ineligible months prior to the increase.

(E) The revised period of ineligibility shall begin in the same month as the original period of ineligibility.

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(3) Example

An AU of two is in a period of ineligibility due to a nonqualifying withdrawal. The pertinent facts of the period of ineligibility are as follows:

- | | | |
|-----|---------|---|
| (A) | \$ 2000 | original balance used to calculate
the period of ineligibility |
| | \$ 576 | original MBSAC |
| | 3 | number of months of ineligibility |
| | January | first month of ineligibility |

The AU size increased to three people in February and the need standard increased to \$715.

- | | | |
|-----|--------------|--|
| (B) | \$2000 | original balance |
| | <u>- 576</u> | MBSAC for one month of ineligibility |
| | \$1424 | result; divide by increased
MBSAC for 3 (\$715) |
| | 1.99 | result |
| | 1 | number of ineligible months
after increase (rounded down) |
| | 1 | number of months before increase |
| | <u>+ 1</u> | number of months after increase |
| | 2 | revised period of ineligibility
(number of months) |

The prior period of ineligibility has been reduced from three months to two months; January and February are the ineligible months.

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42-213 **PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY** **42-213**
WHICH MAY BE RETAINED (Continued)

- (o) Establishing a Separate AU for Other Eligibles

A separate AU may be established for an otherwise eligible person whose needs were not considered in the calculation of the period of ineligibility.

- (p) Termination of the Written Agreement

The written agreement for the restricted account terminates when:

- (1) the AU is discontinued from CalWORKs; or
- (2) the restricted account is closed; or
- (3) the AU does not provide timely verification of the account information as specified in Section 42-213.213(c); or
- (4) state or federal law changes the conditions or no longer permits these restricted accounts.

.24 All personal property and vehicles of non-minor dependents shall be excluded.

.3 A home, regardless of its value, occupied by the assistance unit shall be excluded in evaluating property which may be retained.

.31 Any house, mobile home, camper, trailer, houseboat or any other dwelling whether assessed as real or personal property by the county assessor is excluded if such an item or property is occupied by the AU as a home (place of residence). Property shall continue to be considered the home during temporary absence for reasons such as illness, seasonal employment, visits, extreme climatic conditions, etc., provided the recipient plans to, and it appears will be able to, return to the home when such circumstances no longer exist.

.32 The excluded home may be the unit of a multiple-dwelling unit that is occupied by the assistance unit as a home. A home and a separate unit adjacent to the home shall be treated as a multiple dwelling unit.

.321 The unit(s) of the multiple dwelling that is (are) not occupied by the assistance unit shall be treated as a resource and the value must be included in the property limit described in Section 42-207. See Section 42-215 for the method of determining the value of real property.

42-213 **PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY** **42-213**
WHICH MAY BE RETAINED (Continued)

- (a) If the assistance unit is making a good faith effort to sell the unit(s) that is (are) not occupied as a home, the unit(s) may be exempt from consideration in the resource limit for a period of time under the conditions specified in Section 42-213.12.
 - (b) If the unit(s) that is (are) not occupied as a home cannot be sold separately, the unit(s) is (are) unavailable to meet current needs and shall be excluded in evaluating property. (See Section 44-113.1 for the treatment of income received from the rental of real property.)
- .4 The home which was the usual home of an applicant/recipient who has entered into marital separation shall be treated as follows:
- .41 The usual home shall be exempt in determining an applicant's eligibility for CalWORKs and for three months following the end of the month in which aid begins.

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See Section 44-317.

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- (SAR) .411 If the exemption period ends mid-period, the county shall not act on the information during the SAR Payment Period. The usual home shall be used to determine eligibility for the SAR Payment Period following the SAR Payment Period in which the exemption period ended.
 - (AR/CO) If the exemption period ends mid-period, the county shall not act on the information during the AR/CO Payment Period. The usual home shall be used to determine eligibility for the AR/CO Payment Period following the AR/CO Payment Period in which the exemption period ended.
- .42 The usual home shall be exempt in evaluating a recipient's retained property during the month of separation and for three months following the end of the month in which the separation occurs.
- (SAR) .421 If the exemption period ends mid-period, the county shall not act on the information during the SAR Payment Period. The usual home shall be used to determine eligibility for the SAR Payment Period following the SAR Payment Period in which the exemption period ended.

42-213 **PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY** **42-213**
WHICH MAY BE RETAINED (Continued)

- (AR/CO) If the exemption period ends mid-period, the county shall not act on the information during the AR/CO Payment Period. The usual home shall be used to determine eligibility for the AR/CO Payment Period following the AR/CO Payment Period in which the exemption period ended.
- .43 The applicant/recipient shall be informed when the exemption is granted that it is time-limited and that the expiration of the three month period may result in ineligibility.
- .44 See Sections 42-213.3 and 42-201.1 for situations which require the home to remain excluded from property evaluation following the three month exemption period.
- .5 Other property which is mandatorily and specifically exempt by federal law and shall be exempt from the effective date as specified in federal law.
- .51 Property which is mandatorily exempt under federal law includes, but is not limited to:
- .511 Public Law (PL) 92-254 or PL 94-540 which exempts any funds distributed per capita or held in trust for members of any Native American tribe under PL 92-254 or PL 94-540.
- .512 PL 93-134, PL 97-458 and PL 98-64 which exempt as property the funds of Native American tribes including interest earned from, investment income derived from and initial purchases made with such funds when the funds have been:
- (a) Distributed by the Secretary of the Interior on a per capita basis; or
 - (b) Held in trust by the Secretary of the Interior; or
 - (c) Individually owned trusts or restricted lands.
- .513 PL 100-241 which exempts distributions to a household, individual Native or descendent of a Native when received from a Native Corporation established pursuant to the Alaskan Native Claims Settlement Act (ANCSA). Exempt distributions include:
- (a) Cash (including cash dividends on stock received from a Native Corporation) to the extent it does not exceed \$2,000 total per person per anum, stock, a partnership interest, land or interest in land, and interest in a settlement trust.

42-213	PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY WHICH MAY BE RETAINED (Continued)	42-213
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- .514 PL 100-383 which exempts payments received as restitution made to U.S. citizens and permanent resident aliens of Japanese ancestry, and payment received as restitution made to Aleuts as a result of being relocated by the United States government during World War II.

- .515 PL 100-707 which exempts federal major disaster and emergency assistance provided under the Disaster Relief Act and comparable disaster assistance provided by the state, local governments and disaster assistance organizations.

- .516 PL 101-201 and PL 101-239 which exempt payments received from all Agent Orange settlements.

- .517 PL 101-426 which exempts payments received under the Radiation Exposure Compensation Act.

- .518 PL 101-508 which exempts Earned Income Credit (EIC) payments for the month it is received and the following month.

- .519 PL 103-286 which exempts payments received by victims of Nazi persecution.

NOTE: Authority cited: Sections 10553, 10554, 10604, and 11155.2, Welfare and Institutions Code. Reference: Sections 10553, 10554, 11155, 11155.2, 11155.5, 11253.3(a), 11257, 11265.1, 11265.2, 11450, and 11450.5, Welfare and Institutions Code; Sidwell v. McMahan, United States District Court (E.D. Cal.) May 7, 1990, civil no. S-89-0445; Public Laws 97-458, 98-64, and 103-286; and Federal Action Transmittal 91-23, 45 CFR 233.20(a)(3)(i)(B); Federal Register, Vol. 75, No. 19, dated January 29, 2010, pages 4928 and 4929 [7 CFR 273.12(a)(1)(vii)].

42-215	DETERMINING VALUE OF PROPERTY	42-215
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.1 Determination of Value of Real Property

For determination of CalWORKs eligibility, an applicant or recipient's net market value interest in real property is determined by subtracting any allowable encumbrance against it from its market value (42-215.21).

- .11 Acceptable evidence of allowable encumbrances on real property are listed below:
 - (a) Mortgages
 - (b) Notes
 - (c) Deeds of trust

42-215	DETERMINING VALUE OF PROPERTY (Continued)	42-215
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- (d) Payment receipts
- (e) Loan payment books
- (f) Delinquent tax liens
- (g) Judgments items
- (h) Mechanics liens
- (i) Assessments
- (j) Unpaid balance on property

.12 Applicant and/or Spouse Not Sole Owners

If the applicant or the applicant and his spouse are not the sole owners of property, only his or their proportionate share is included in their respective holdings.

.13 In order to identify real property holdings of recipients, the county shall, at least, contact the local county assessor, recorder or tax collector.

.2 Acceptable Evidence of Value of Real Property

.21 In CalWORKs the market value of real property shall be based on the most recent appraisal of market value from the county assessor, recorder or tax collector.

.22 Evidence of an allowable encumbrance in .21 above shall be the written document which supports it. Evidence of unwritten encumbrances shall be the sworn statements of all parties, under penalty of perjury, to the following:

- .221 initial and maturity date;
- .222 extent of encumbrances; and
- .223 value received

.3 Determination of Value of Personal Property Other than Motor Vehicles: The county shall determine the value of personal property in conformance with methods established under the Food Stamp Program. (See Food Stamp regulations at Manual of Policies and Procedures Section 63-501.5.)

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- .31 Food Stamp regulations at Manual of Policies and Procedures Section 63-501.5 states that the value of nonexcluded resources shall be their equity value. The equity value is the fair market value less encumbrances.

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- .32 Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.
- .33 Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.
- .34 Repealed by Manual Letter no. EAS-98-03, effective 7/1/98.
- .4 Determination of Vehicle Value: The county shall determine the value of vehicles in conformance with methods established below.
- .41 Fair Market Value of Vehicles - Verification
- .411 The fair market value of automobiles, trucks and vans shall be determined by the value of those vehicles as listed in publications written for the purpose of providing guidance to automobile dealers and loan companies. Publications listing the value of vehicles are usually referred to as "blue books". The CWD shall insure that the blue book used to determine the value of vehicles has been updated within the last six months. The CWD shall assign the wholesale value to vehicles. If the term "wholesale value" is not used in a particular blue book, the CWD shall assign the listed value which is comparable to the wholesale value. The CWD shall not increase the basic value of a vehicle by adding the value of low mileage or other factors such as optional equipment or special equipment for the handicapped. If a new vehicle is not yet listed in the blue book, the CWD shall determine the wholesale value through some other means, such as contacting a car dealer which sells that make of vehicle and asking how much the dealership would offer the household for the car.
- .412 To determine the most appropriate value of a vehicle, the CWD shall obtain from the applicant and/or the vehicle's registration card, the vehicle's year, make, model, and number of doors. If the information for these four items is incomplete, the CWD shall use the lowest blue book value listed to the extent that the vehicle has been identified.

42-215 DETERMINING VALUE OF PROPERTY (Continued)

42-215

.413 A household may indicate that for some reason, such as body damage or inoperability, a vehicle is in less than average condition. Any household which claims that the blue book value does not apply to its vehicle shall be given the opportunity to acquire verification of the true value from a reliable source. Also, households shall be asked to acquire verification of the value of licensed antique, custom made, or classic vehicles, if the CWD is unable to make an accurate appraisal. If a vehicle is no longer listed in the blue book, the household's estimate of the value of the vehicle shall be accepted, unless the CWD has reason to believe the estimate is incorrect. In that case, and if it appears that the vehicle's value will affect eligibility, the household shall obtain an appraisal or produce other evidence of its value, such as a tax assessment or a newspaper advertisement which indicates the amount for which like vehicles are being sold.

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.42 Handling of Unlicensed Vehicles

The value of unlicensed vehicles shall be their equity value, unless an exemption applies. The equity value is the fair market value less encumbrances.

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.43 Handling of Licensed Vehicles.

The value of licensed vehicles shall be the greater of the fair market value as provided in Section 42-215.44, or the equity value as provided in Section 42-215.45, unless an exemption applies as provided in Section 42-215.431.

.431 The entire value of any licensed vehicle shall be exempt if any of the following apply:

- (a) It is used primarily (over 50 percent of the time the vehicle is used) for income-producing purposes such as, but not limited to, a taxi, truck or fishing boat;
- (b) It annually produces income that is consistent with its fair market value, even if used on a seasonal basis;
- (c) It is necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member; for example, the vehicle of a traveling sales person or a migrant farm worker following the work stream;

42-215	DETERMINING VALUE OF PROPERTY (Continued)	42-215
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- (d) It is used as the family's residence.
- (e) It is necessary to transport a physically disabled family member, including an excluded disabled family member, regardless of the purpose of the transportation.

Example:

- (1) If the physical disability of the individual is not evident to the eligibility worker, verification shall be required.
- (2) The individual shall be required to provide a statement from a physician certifying that the individual is physically disabled. The disability may be temporary or permanent.
- (3) There shall be a limit of one vehicle per physically disabled household member.
- (4) The vehicle need not have special equipment or be primarily used by or for the transportation of the physically disabled household member. However, a vehicle shall be considered necessary for the transportation of a physically disabled household member if the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle that makes it possible to transport the disabled person.
- (f) It would be exempted under any of Sections 42-215.431(a) through (d), inclusive, but the vehicle is not in use because of temporary unemployment, such as when a taxi driver is ill and cannot work, or when a fishing boat is frozen in and cannot be used.
- (g) It is used to carry fuel for heating or water for home use, when the transported fuel or water is the primary source of fuel or water for the family.
- (h) The equity value of the vehicle is one thousand five hundred and one dollars (\$1,501) or less.

42-215 DETERMINING VALUE OF PROPERTY (Continued) 42-215

- .44 Each licensed vehicle that is not exempted under Section 42-215.431 shall be individually evaluated for fair market value, and any portion of the value that exceeds four thousand six hundred fifty dollars (\$4,650) shall be attributed in full market value toward the family's resource level, regardless of any encumbrances on the vehicle, the amount of the family's investment in the vehicle, and whether the vehicle is used to transport family members to and from employment. Each vehicle shall be appraised individually. The fair market value of two or more vehicles shall not be added together to reach a total fair market value in excess of the current vehicle exclusion limit.
- .441 For example, a household owning an automobile with a fair market value of \$5,500 shall have the current vehicle exclusion limit (\$4,650 as of October, 1996) excluded and \$850 applied toward its resource level.
- .45 Licensed vehicles shall also be evaluated for their equity value, except for the following:
- .451 Vehicles excluded by Section 42-215.43.
- .452 One licensed vehicle per adult family member, regardless of the use of the vehicle.
- .453 Any other licensed vehicle driven by a household member under 18 years of age (or an ineligible noncitizen or disqualified household member under age 18 whose resources are being considered available to the household) to commute to and from employment, or to and from training or education which is preparatory to employment, or to seek employment. The equity exclusion applies during temporary periods of unemployment, to a vehicle which a member under age 18 customarily drives to commute to and from employment.
- .46 In the event a licensed vehicle is assigned both a fair market value in excess of the vehicle exclusion limit as specified in Section 42-215.441 and an equity value, only the greater of the two amounts shall be counted as a resource.

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- .461 When computing the value of a licensed vehicle which has not been totally excluded or is not equity exempt, determine both the FMV and the equity value of the vehicle. The larger of the two values is considered the resource value and counted in the resource limit.

Example: The greater of the two amounts is counted as a resource.

Computation of FMV		Computation of Equity Value	
\$5,000	FMV	\$5,000	FMV
-4,650	Exclusion Limit	-3,250	Amount Owed
\$ 350	Excess FMV	\$1,750	Equity Value

The greater of the two amounts to be considered as a resource is \$1,750.

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- .47 Steps in evaluating vehicles:

.471 **Step One**

Determine if any vehicle in the household is excludable as a resource. Vehicles in this category include those that are:

- (a) Income producing;
- (b) Annually producing income consistent with FMV, even if used on a seasonal basis;
- (c) Necessary for long distance travel to employment other than daily commuting, e.g., traveling salesman;
- (d) Used as a home;

42-215 DETERMINING VALUE OF PROPERTY (Continued) 42-215

- (e) Necessary to transport a physically disabled household member;
- (f) Previously used as income producing by a self-employed household member who is temporarily unemployed. Exclude for one year period from date of termination of self-employment in farming.
- (g) Household depends on vehicle to carry fuel for heating or water for home use when such fuel or water is the primary source of fuel or water for the household.

If none of the vehicles in the household are categorized as excludable from resource consideration, or there are remaining vehicles left to be evaluated after others have been determined excludable, go to Step 2.

.472 Step Two

Exclude any vehicle, licensed or unlicensed, that is an inaccessible resource (a vehicle that will not produce an estimated return of more than \$1,500). Valuation of an inaccessible vehicle is required at application and when a new vehicle is reported. Reevaluation is required only at redetermination.

.473 Step Three

Of the remaining licensed vehicles, determine the number of adult household members and exempt one vehicle each from the equity valuation. The FMV must be calculated, and the excess FMV is considered as a countable resource. Adult household members also include ineligible noncitizens or disqualified family members whose resources are considered available to the AU.

Then, determine if any of the remaining licensed vehicles in the family are used by a teenager under age 18 to drive to work, school, job training, or to look for work. If there is a vehicle used by a teenager for any of these purposes, it is exempt from the equity value, but must be evaluated for FMV. The excess FMV is considered a countable resource. Family members under the age of 18 also include an ineligible noncitizen or disqualified household member under age 18 whose resources are considered available to the AU.

42-215	DETERMINING VALUE OF PROPERTY (Continued)	42-215
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.474 **Step Four**

For any remaining licensed vehicles, compute the FMV and the equity value. Use the greater of the excess FMV or equity value as the countable resource value.

.475 **Step Five**

For any remaining unlicensed vehicles compute the equity value of each and use the resultant amount as a countable resource value.

Add the values of the above values to arrive at the total vehicle resource value.

.48 The exclusions for licensed vehicles as specified in Section 42-215.431 shall also apply to:

.481 unlicensed vehicles on those Indian reservations that do not require vehicles driven by tribal members to be licensed;

.482 licensed vehicles used by ineligible noncitizens or disqualified persons whose resources are considered available to the family.

.5 Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

.6 Repealed by Manual Letter No. EAS-98-03, effective 7/1/98.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10063, 10554, 11155 and 18901.9 (Ch. 743, Stats. of 2003), Welfare and Institutions Code; and Federal Register Volume 68, No. 168, Page 51933 published on August 29, 2003.

42-219 ACQUISITION AND CONVERSION OF REAL AND PERSONAL PROPERTY 42-219

.1 Conversions of Property

These regulations are to be applied in a flexible and reasonable manner which within the limits specified in the code, will allow the recipient a maximum freedom of choice in the acquisition, conversion, or disposition of property resources without affecting his eligibility.

Real or personal property may be acquired or converted to other forms by a recipient without affecting eligibility if the resultant holdings do not exceed the maximum allowed by the code.

Payments which include compensation for property which was lost, stolen, damaged, or destroyed shall be evaluated in accordance with Section 44-105.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 10554, Welfare and Institutions Code.

42-221 TRANSFER OF PROPERTY OR INCOME **42-221**

.1 The receipt of aid shall not limit or restrict a recipient's right to give, receive, sell, exchange, or change the form of property. A period of ineligibility (POI) shall result when a recipient AU gives away or transfers, for less than fair market value (FMV), nonexcluded property (including cash) that would cause the AU to exceed its eligibility for cash aid. (See Section 42-207 for property limits.)

.2 Property

.21 The POI shall be computed based on the amount that, when added to other countable property, would have exceeded the property limit if the property had been transferred at its FMV. The county shall determine the POI as follows:

.211 Establish the FMV of the property transferred;

.212 Add other countable property;

42-221	TRANSFER OF PROPERTY OR INCOME (Continued)	42-221
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- .213 Subtract the amount of the property limit;
- .214 Subtract the amount actually received for the property from the FMV amount determined in Section 42-221.211;
- .215 Compare the amount calculated in Section 42-211.213 with the amount calculated in Section 42-221.214 and determine the lesser of the two amounts;
- .216 Divide the lesser of the two amounts in Section 42-221.215 by the MBSAC for the AU;
- .217 Round the resulting figure down to the nearest whole number to determine the number of months in the POI.

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.3 Example: While on aid, a recipient AU of two persons inherits a parcel of real property with a FMV of \$1,300. The value of this inherited property, when added to other (\$1,400) countable property held by the AU, causes the AU to exceed the allowable property limit (\$2,000). The AU sells the parcel for \$100, which is less than its \$1,300 fair market value.

.31 Computation Factors:

\$ 1,300		FMV of the parcel of real property
+ 1,400		Property held by the AU
\$ 2,700		
- \$ 2,000		AU property limit. (See Section 42-207.)
\$ 700		Amount in excess of the property limit
\$1,300		FMV of the parcel of real property
- 100		Amount actually received by the AU for the real property
\$1,200		Difference between the FMV and the amount received for the property.

\$700 is less than the \$1,200 difference between the FMV and the amount received for the transferred property

\$700 divided by \$624* = 1.12 months

POI = 1 month (rounded down from 1.12 months)

*MBSAC for AU of 2 = \$624; MBSAC amounts are subject to change.

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42-221	TRANSFER OF PROPERTY OR INCOME (Continued)	42-221
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.4 Income

Nonrecurring lump sum income/payments shall be treated as property and shall be subject to any application of POI rules for a transfer of property for less than FMV.

.41 Income is considered nonrecurring if all of the following apply:

.411 the income is not interest income or contractual income as specified in MPP Section 44-102 which requires a specified treatment;

.412 the income is for a period of more than one month, and

.413 the income is not from a source expected to occur regularly.

.5 Applying the Period of Ineligibility (POI)

.51 When the family has transferred property which results in a POI, cash aid shall be discontinued and the POI begin as follows:

(SAR) (a) The first month of the next SAR Payment Period following the transfer and shall continue for the determined number of months of ineligibility. Any aid received by the AU during the ineligible months of the SAR Period is an overpayment.

(AR/CO) The first month of the next AR/CO Payment Period following the transfer and shall continue for the determined number of months of ineligibility. Any aid received by the AU during the ineligible months of the AR/CO Payment Period is an overpayment.

(SAR) (b) When the transfer is discovered too late to discontinue for the first month of the SAR Payment Period, the POI shall begin the first of a month within that SAR Payment Period after timely and adequate notice is given. Any aid received by the AU during the ineligible month(s) of the current SAR Payment Period is an overpayment.

(AR/CO) When the transfer is discovered too late to discontinue for the first month of the AR/CO Payment Period, the POI shall begin the first of a month within that AR/CO Payment Period after timely and adequate notice is given. Any aid received by the AU during the ineligible month(s) of the current AR/CO Payment Period is an overpayment.

42-221 TRANSFER OF PROPERTY OR INCOME (Continued) **42-221**

(c) Section 42-221.51(c)(QR) shall become inoperative in a county on the date SAR becomes effective in that county, pursuant to the County's SAR Declaration.

(QR) When the transfer is in the first or second month of aid, any resulting POI shall begin the first month of the next QR Payment Quarter and shall continue for the determined number of months.

.6 Transfer of property rules do not apply to applicant families.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11157.5 (Ch. 270, Stats. of 1997 and Ch. 902, Stats. of 1998), 11265.1, 11265.2, 11265.3, and 11450.5, Welfare and Institutions Code.

42-223 SPECIAL PROPERTY CONSIDERATIONS **42-223**

.1 Property in Another State

Since the method for computing the assessed value of real property in other states may not be the same as that utilized in California, it is necessary to convert values arrived at by other states into figures that are comparable to the value referred to in EAS 42-215.21. This should be accomplished by application of the following conversion formula:

$$\begin{array}{ccccccc} \text{Assessed value} & & & \text{Assessment Value as} & & & \\ \text{of property in} & & & \text{rate of} & = & & \text{used in} \\ \text{another state} & \text{divided} & & \text{that state} & & & \text{EAS 42-215.21} \\ & \text{by} & & & & & \end{array}$$

.2 Tax Exemptions

Veterans (and in some cases their widows and parents) are allowed certain tax exemptions which are applied either to real or personal property. If the record used to determine the full value of the property shows only the amount of assessment upon which taxes are based, the amount of exemption would be determined and added to the taxable value to determine the full value.

.3 Property Outside the United States

If property is located outside the United States, the full value is determined on the basis of the rate of exchange in American dollars, regardless of the manner by which other units of government determine the full value.

.4 Ownership of Property in Militarily Occupied Areas

Ownership and value of property located in countries actively at war or in conquered or occupied areas is considered to be in doubt and the facts as to the holdings usually cannot be ascertained. If it is impossible to obtain information on property located in such countries, it is the presumption that continued ownership is in doubt and that such property has no present value in determining eligibility.

**NONLINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY
GENERAL TIME LIMIT REQUIREMENTS**

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CHAPTER 42-300 GENERAL TIME LIMIT REQUIREMENTS

42-301 GENERAL TIME LIMIT REQUIREMENTS FOR ADULTS 42-301

- .1 Time Limits Effective July 1, 2011, there shall be a 48-month time limit on the receipt of aid in California for certain adults as specified in Section 42-302.1. Prior to this date, there was a 60-month time limit on the receipt of aid for certain adults.

- .2 Ineligible Due to Time Limits Adults who are ineligible for aid based on the 48-month time limit provisions, specified in Section 42-302, shall be removed from the AU. See MPP Sections 44-133.8 and 82-833.1 for additional regulations pertaining to timed-out adults.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11450, 11454(a), (b), and (c), and 11454.2, Welfare and Institutions Code.

42-302 48-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS 42-302

- .1 48-Month Time Limit Except as specified in Section 42-302.11, no individual shall be eligible for aid when that individual has received aid as an adult, 18 years of age or older, for a cumulative total of 48 months. The 48-month time limit applies to aid received under CalWORKs. The 48-month time limit also applies to any aid received under another state's program funded by the federal Temporary Assistance to Needy Families (TANF) Program since January 1, 1998. The 48-month time limit shall not apply to children or non-minor dependents.

- .11 Exceptions When an individual has been aided as an adult for 48 months, additional months of aid may be provided to that adult when all parents, aided stepparents, and/or caretaker relatives residing in the home of the aided child(ren) meet any of the following conditions:
 - .111 Advanced Age The individual is 60 years of age or older.

 - .112 Providing Care The individual is exempt from welfare-to-work participation requirements due to:

42-302	48-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS (Continued)	42-302
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| | (a) | The need to care for an ill or incapacitated person residing in the home, and the caretaking responsibilities impair the individual's ability to be regularly employed or to participate in welfare-to-work activities. |
| | (b) | Being a nonparent caretaker of either a dependent child of the court, a Kin-GAP child, or, as determined by the county, a child who is at risk of placement in foster care. For this exemption to apply, the county must also determine that the caretaking responsibilities are beyond those considered normal day-to-day parenting responsibilities so that they impair the individual's ability to be regularly employed or to participate in the welfare-to-work activities. |
| .113 | Disabled | The individual is receiving benefits from State Disability Insurance, Worker's Compensation Temporary Disability Insurance, In-Home Supportive Services, or the State Supplementary Program, and the disability significantly impairs his/her ability to be employed on a regular basis or to participate in welfare-to-work activities. |
| .114 | Unable to Maintain Employment or Participate | The county determines that the individual is not able to maintain employment or to participate in welfare-to-work activities, based on a current assessment of the individual as specified in MPP Section 42-302.114(b), and the county's finding that the individual has a history of participation and full cooperation in welfare-to-work activities. |
| | (a) | An individual shall be found to have a history of participation and full cooperation in welfare-to-work activities if the individual meets the criteria in Section 42-302.114(a)(1) or (a)(2): |

42-302	48-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS	42-302
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(Continued)

- (1) The recipient has not failed to meet satisfactory participation, attendance, and progress requirements, without good cause, as evidenced by the absence of an instance or instances of noncompliance that resulted in a welfare-to-work financial sanction during the time an individual was a mandatory welfare-to-work participant.
 - (A) For purposes of this section, a sanction received while the individual was a volunteer in the CalWORKs welfare-to-work program pursuant to MPP Section 42-712.51, or an aid recipient in another state shall not be considered a welfare-to-work sanction.

- (2) The recipient has an instance or instances of noncompliance that resulted in a welfare-to-work sanction or sanctions; however, the individual has also maintained a sustained period or periods of welfare-to-work participation despite the presence of an impairment or combination of impairments, as determined pursuant to MPP Sections 42-711.56, 42-711.57, or 42-711.58, including domestic abuse, as determined pursuant to MPP Section 42-715.
 - (A) For purposes of this section, six months, or two or more periods of welfare-to-work participation within a consecutive 24-month period, including participation in orientation/appraisal, job search, assessment/evaluations, and post-assessment activities, that total six-months or more shall be considered a sustained period.
 - (B) For purposes of this section, an impairment is one not so severe that it meets the welfare-to-work exemption or waiver requirements in MPP Sections 42-712.44 or 42-715, respectively, but nevertheless limits an individual's ability to perform the physical and/or mental functions necessary to maintain employment or participate in welfare-to-work activities.

42-302	48-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS	42-302
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(Continued)

(b) Upon the county's determination that the individual has a history of participation and full cooperation in welfare-to-work, the county shall assess the individual's current ability to maintain employment or participate in welfare-to-work activities.

(1) For purposes of this section, an individual who is fully participating in her/his welfare-to-work assignment upon reaching the 48-month time limit shall be considered able to maintain employment or participation unless the individual's required welfare-to-work activity has been modified in accordance with MPP Section 42-302.114(b)(2)(B).

(A) For purposes of this section an individual is fully participating if she/he is meeting their 32 or 35 hours of participation requirement or successfully participating in unsubsidized employment and/or other welfare-to-work activities for the number of hours an appropriate activity is reasonably available.

42-302	48-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS (Continued)	42-302
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Example of an individual who is able to maintain employment and is participating for less than the required 32 or 35 hours per week: Due to a business slowdown, a recipient, who has received 46 countable months of aid, had her hours of unsubsidized employment reduced from 38 hours to 25 hours per week. Another appropriate welfare-to-work activity including, but not limited to job search, that would allow her to meet the 32- or 35-hour per week participation requirement and is consistent with her plan, does not become available before the recipient reaches her 48-month time limit. Although the recipient is not participating for the required number of hours, she is not subject to a sanction and is considered able to maintain employment.

Example of an individual who may be considered incapable of work and is participating for the required 32 or 35 hours per week through a modification of her/his welfare-to-work activities:

A recipient has a documented physical impairment, chronic back pain following surgical treatment for a back injury, and history of substance abuse. Upon reaching her 48-month time limit, the recipient's welfare-to-work participation consists of substance abuse treatment, pain management classes, and community service as a clerical assistant.

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- (2) The county's determination that an individual is incapable of maintaining employment or participating in welfare-to-work activities shall be based upon, but not limited to, any of the following criteria:

42-302	48-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS (Continued)	42-302
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- (A) The individual has a documented impairment or combination of impairments, as specified in MPP Section 42-302.114(a)(2), that is of such severity that the individual is incapable of successfully maintaining employment or participation in welfare-to-work activities for 20 or more hours per week.

- (B) The individual has a documented impairment as specified in MPP Section 42-302.114(a)(2), and is maintaining her/his participation in welfare-to-work activities only through a significant modification of the individual's welfare-to-work activities.
 - 1. For purposes of this section, a significant modification includes but is not limited to: mental health counseling; substance abuse treatment; domestic abuse services; a supported work environment, which is characterized by close supervision, graduated performance expectations, and peer support; or additional time to complete an activity.

- (C) The individual has a documented impairment or combination of impairments, as specified in MPP Section 42-302.114(a)(2), and due to local labor market conditions there is a lack of employers that could reasonably accommodate the individual's physical and/or mental limitations.

42-302	48-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS	42-302
	(Continued)	

(c) Individuals that are determined to be incapable of maintaining employment shall have their condition reviewed at least once every 12 months, unless the disabling condition or conditions is expected to improve at an earlier date. For individuals with a learning disability, which was documented pursuant to MPP Section 42-711.58, the county shall review the individual’s employment status and the impact of any newly-developed coping skills, strategies, and accommodations on the individual’s ability to maintain employment, ability to cope with his/her impairment and shall not require a reevaluation of the learning disability.

.115 Unaided The individual is excluded from the AU for reasons other than exceeding the time limit.

.12 Domestic Abuse When an individual has been aided as an adult for 48 months, aid may continue for that adult when the individual is a victim of domestic abuse and the county has determined that good cause exists for waiving the 48-month time limit. See Section 42-713.22.

.2 Counting the 48-Month Limit Any month or partial month in which an adult is included in an AU that receives a cash grant, including Special Needs (see Section 44-211), shall count for the purposes of the 48-month time limit, except as provided in Sections 42-302.21 (Exempt Months) and 42-302.22 (Diversion Count).

Any overpayment month, (an entire month of aid in which the recipient was not entitled to cash aid), that is fully repaid shall not count for the purposes of the 48-month time limit.

42-302 **48-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS** **42-302**
(Continued)

- .21 Exempt Months Any month in which any of the following conditions exist for any period during the month shall not count toward the 48-month limit as specified:
- (a) Disability The individual is exempt from welfare-to-work participation requirements due to a verified disability that is expected to last at least 30 days.
 - (b) Providing Care The individual is exempt from welfare-to-work participation requirements due to:
 - (1) The need to care for an ill or incapacitated person residing in the home, and the caretaking responsibilities impair the individual's ability to be regularly employed or to participate in welfare-to-work activities.
 - (2) Being the nonparent caretaker of either a dependent child of the court, a Kin-GAP child, or, as determined by the county, a child who is at risk of placement in foster care. For this exemption to apply, the county must also determine that the caretaking responsibilities are beyond those considered normal day-to-day parenting responsibilities so that they impair the individual's ability to be regularly employed or to participate in the welfare-to-work activities.
 - (3) Being the parent or other relative who has primary responsibility for personally providing care to one child who is from 12 to 23 months of age, inclusive, or two or more children who are under six years of age. This paragraph is effective July 28, 2009 and shall become inoperative on July 1, 2012.

42-302	48-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS	42-302
	(Continued)	

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| | (c) | Domestic Abuse | The individual is a victim of domestic abuse and the county has determined that good cause exists for waiving the 48-month time limit. See Section 42-713.22. |
| | (d) | Teen Program | The individual is eligible for, participating in, or exempt from Cal-Learn or another teen parent program approved by the CDSS. The exemption does not apply to an individual who is 19 years of age and is eligible for voluntary participation if the individual chooses not to participate in Cal-Learn. |
| | (e) | Non-minor dependent | The individual is exempt from welfare-to-work participation due to eligibility as a non-minor dependent. |
| | (f) | Advanced Age | The individual is exempt from welfare-to-work participation requirements due to being 60 years of age or older. |
| | (g) | Unaided | The individual is excluded from the AU for reasons other than exceeding the time limit. |
| | (h) | Aid is Reimbursed | The cash aid is fully reimbursed as a result of child support collection whether collected in that month or any subsequent month. |
| | (1) | Process for Reimbursement of Months of Aid for Exemption | All assigned child support payments, including collections in a current month, arrears, and lump sum payments collected to reimburse aid in California from January 1998 forward, shall be applied cumulatively to repay aid payments in the following order: |
| | (A) | | The cumulative child support recoupment will be applied to each month of aid beginning with the earliest unreimbursed month of aid, on or after January 1998, and moving forward as each month of aid is fully reimbursed. |

42-302	48-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS	42-302
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- (B) Recoupment, as provided by the local child support agency, is all child support that has been assigned and collected to repay aid. Beginning October 1998, this includes the disregard payments pursuant to MPP Section 12-425(c)(1)(B).
- (C) Each month of aid that is fully reimbursed by child support shall be exempt and not counted toward the CalWORKs 48-month time limit of parents, aided stepparents, and/or aided caretaker relatives residing in the home of the child(ren.)
- (D) The child support recoupment shall be applied to all months of aid whether or not the month had been previously exempted for any reason, including any month(s) exempt because the individual was unaided for any reason, including a sanction.
- (E) The child support recoupment will be reviewed to determine if the cumulative amount is sufficient to reimburse and exempt a monthly grant amount. Any child support that remains but is insufficient to fully reimburse a monthly grant, whether collected in the current month or for a previous period of time, shall be carried forward and used for any subsequent unreimbursed month(s) of aid.
- (F) The recipient shall be informed of the exempt months due to child support recoupment pursuant to MPP Sections 40-107(a)(4)(A) through (a)(4)(I).
- (G) Information regarding the balance of child support recoupment and the number of months exempt due to the child support recoupment must be reported to any subsequent county(ies) to continue reimbursement of the subsequent months of aid.

NONLINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY

Regulations

GENERAL TIME LIMIT REQUIREMENTS

42-302 (Cont.)

42-302 48-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS 42-302
(Continued)

(i) Living in Indian Country The individual lived in Indian country, as defined by federal law, or an Alaskan native village, in which at least 50 percent of the adults living in the Indian country or in the village are not employed.

(1) Counties shall obtain the required information on unemployment rates through the governing body of each tribal land.

(j) Receiving Supportive Services The individual is a former recipient of cash aid and is only receiving child care, case management or supportive services.

(k) Grant Amounts Less Than \$10 The recipient does not receive a cash aid payment for the month because the grant amount is less than \$10.

(l) Lack of Necessary Supportive Services The individual is excused from participation for good cause due to lack of necessary supportive services, as specified in Section 42-713.21. This paragraph is effective July 28, 2009 and shall become inoperative on July 1, 2012.

.22 Diversion Count Diversion payments as set forth in Section 81-215 count toward the 48-month time limit unless they are recouped as provided in Section 42-302.223(a) or unless part or all of the diversion period is exempt as provided in Section 42-302.21 et seq. Count the months as follows:

.221 Diversion Payment Month The month in which a lump sum diversion payment is made counts as one month toward the 48-month time limit unless the diversion recipient applies for CalWORKs cash aid during the diversion period, as specified in Section 81-215.41, and is determined to be eligible for CalWORKs. In that case, the diversion payment is treated in accordance with Section 42-302.223.

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NONLINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY**Regulations****GENERAL TIME LIMIT REQUIREMENTS****42-302 (Cont.)**

42-302 48-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS
(Continued)**42-302**

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.222

A recipient receives a diversion lump sum payment of \$1,800 in March. The month of March counts toward the 48-month time limit. The recipient's Region 2, Non-Exempt MAP amount is \$538. This results in a diversion period of three months for the months of March, April, and May. The recipient does not apply for CalWORKs cash aid during the diversion period. The recipient reapplies in September and receives another diversion payment of \$800 in September. The months of March and September both apply toward the 48-month time limit.

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.223 Reapplies for CalWORKs
During Diversion Period

If the diversion recipient applies for cash aid during the diversion period and is determined eligible, the recipient shall have the option to:

(a)

Have the diversion payment recouped from the CalWORKs cash aid; or

(b)

Count the diversion payment toward the 48-month time limit.

(1)

The number of months counted toward the 48-month time limit is calculated by dividing the total diversion payment by the MAP for the apparently eligible AU at the time the diversion payment was made. The month(s) resulting from this calculation, less any partial month, is (are) counted toward the 48-month limit. Do not count the initial month (as counted pursuant to Section 42-302.221) twice.

| 42-302

48-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS

42-302

(Continued)

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.224

A recipient with a Region 2, Non-Exempt MAP of \$538 received a lump sum diversion payment in the amount of \$1,800 in March. The recipient returns to the county in May (within the diversion period), is determined eligible for CalWORKs cash aid, and opts not to have the \$1,800 diversion payment recouped from the CalWORKs cash aid. The diversion payment equates to 3.3 months of aid. The partial month is dropped, and the recipient has a total of three months (March, April, and May) counted toward the 48-month time limit.

.225

A recipient with a Region 2, Non-Exempt MAP of \$538 receives a diversion lump sum payment of \$100 on March 2. The recipient reapplies for CalWORKs cash aid in the same month and is determined eligible. The month of March counts as one month toward the 48-month limit because the recipient received CalWORKs aid.

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42-302	48-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS	42-302
	(Continued)	

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|-----|-----------------------------------|---|
| .3 | Requesting Exemptions/Exceptions | An applicant or a recipient can request an exemption/exception verbally or in writing. When a recipient states that s/he meets a condition that qualifies as an exemption to the 48-month time limit, as specified in MPP Sections 42-712 and 42-302.21 or an exception to the 48-month time limit as specified in 42-302.11, the county shall document the request and provide the recipient with an exemption/exception request form, if necessary to complete the request. |
| (a) | | A completed exemption/exception request by the applicant/recipient can be a verbal request if all required information to make a determination on the request is available to the county. |
| (b) | | Exemptions/exceptions that do not require a written request include, but are not limited to, 60 years of age or older, aid reimbursed by child support collected, grant amounts less than \$10, and receiving only supportive services. |
| .31 | Exemption/ Exception Request Form | The form to request an exemption or exception shall include, but is not limited to, the following: |
| (a) | | A description of the exemptions to the CalWORKs 48-month time limit, provided in MPP Section 42-302.21, and a description of the 48-month time limit exceptions, provided in MPP Section 42-302.11. |

42-302	48-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS (Continued)	42-302
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- (b) A statement that the individual may need to provide documentation to substantiate some exemptions/exceptions.
- (c) A statement of exemptions from the time limit that do not require a written request.
- (d) A statement that the individual will be informed, in writing, whether the exemption/exception is granted or not and the reason if the exemption/exception is denied.
- (e) A statement that the individual may request a State hearing to appeal a denial of an exemption/exception request.

.32 Exemption/Exception Determination

The county shall inform the individual, in writing, of the exemption/exception determination no later than 15 calendar days from the date of completed request for an exemption/exception pursuant to Section 42-302.3. The specified response time may be exceeded in situations where completion of the determination is delayed because of circumstances beyond the control of the county, in which instances the case record must specify the cause for delay. These instances include:

- (a) Inability on the part of the recipient to provide the necessary verification.
- (b) Delay on the part of an examining physician to provide the necessary information.

.33 Documentation of Exemption/Exception

The county shall first research all available and relevant case records before requesting additional verification from the recipient. Pursuant to MPP Section 40-107(a), the county shall assist the applicant/recipient in obtaining the necessary records to verify the exemption/exception.

42-302 48-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS 42-302
(Continued)

- .34 Determination Notice The notice of action approving or denying a request for an exemption or exception shall state whether the request was granted or denied and if denied, the reason for the denial.
- (a) Repealed by Manual Letter No. EAS-03-04, effective 4/9/03.
- (b) Repealed by Manual Letter No. EAS-03-04, effective 4/9/03.
- (c) Repealed by Manual Letter No. EAS-03-04, effective 4/9/03.

NOTE: Authority cited: Sections 10553, 10554, and 11369, Welfare and Institutions Code. Reference: Sections 10553, 10554, 11253.3(a), 11266.5, 11320, 11320.3, 11454, 11454(e) and (e)(5), 11454.2, 11454.5, and 11495.1, Welfare and Institutions Code; Section 37 of AB 444 (Chapter 1022, Statutes of 2002); and 42 U.S.C. 608(a)(7)(a), (B) and (D).

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**NONLINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY
RESIDENCE**

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CHAPTER 42-400 RESIDENCE

42-400 RESIDENCE 42-400

Residence in the state, but not in the county, is a requirement for receipt of aid. However, it is necessary to determine the county in which the applicant lives in order to establish county responsibility for payment of aid. (See Section 40-125.)

42-401 STATE RESIDENCE FOR ELIGIBILITY 42-401

No durational period of residence in the state or county is required.

42-403 RESIDENCE - GENERAL 42-403

.1 Definition of Residence

A person establishes residency by either:

- .11 Voluntarily living in the state with the intention of making his or her home for other than a temporary purpose. Residence may not depend upon the reason for which the individual entered the state, except insofar as it may bear upon whether the individual is there voluntarily or for a temporary purpose; or
- .12 Living in the state at the time of application, not receiving assistance from another state, and having entered the state with a job commitment or to seek employment, whether or not currently employed, (e.g., migrant and itinerant workers).

An AFDC-FG/U child living with a caretaker who qualifies under this definition, is a resident of the state in which the caretaker is a resident.

.2 Duration of Residence

Residence in the state established by either of the above criteria continues until the recipient leaves the state and establishes residence elsewhere. Temporary absence from the state, with subsequent returns, or the intent to return to the state when the purposes of the absence have been accomplished, does not interrupt continuity of residence (see 42-405, 406, and 407).

.3 Program Requirements

The husband or wife may each have a separate residence, a fact which is established by the actions and intent of each. An applicant for or recipient of aid does not lose residence for aid because of marriage, but moving out of state with the spouse also implies intent to establish residence elsewhere.

NONLINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY

42-405

RESIDENCE

Regulations

42-405 RIGHTS AND RESPONSIBILITIES OF APPLICANTS OR RECIPIENTS 42-405

.1 Rights of Residence Location

Applicants for or recipients of aid have the same freedom of movement and choice of a place to live accorded other citizens of California.

.2 Informing County of Residence Changes

.21 An applicant or recipient, shall immediately inform the county to which he applied, or the county paying aid, if he goes to another county, state, or country, regardless of the anticipated date of return. (See Section 40-181.4.)

.22 Such an applicant or recipient shall cooperate with the county welfare department and provide the county with a monthly written statement explaining his reasons for absence from California, his intent to return to California and anticipated date of return. Failure to promptly provide such statements will result in immediate discontinuance of aid payments.

42-406 COUNTY WELFARE DEPARTMENT RESPONSIBILITY 42-406

.1 Physical absence from the state indicates a possible change of residence. The county shall make inquiry, on a monthly basis, from all applicants or recipients who have been continuously absent from the state for 30 days or longer in order to ascertain the recipient's intent to maintain California residency. If the inquiry establishes (see Section 42-407.2) that the recipient is no longer a California resident, aid shall be discontinued at the end of the month in which timely and adequate notice can be given.

.2 The response to the inquiry shall include, but is not limited to, the following:

.21 a statement of the applicant or recipient declaring his anticipated date of return to California, or his intent not to return to California.

.22 a statement of the applicant or recipient declaring his reason for continued absence from California.

.23 a statement of the applicant or recipient delineating the present location and status of the housing arrangements (owned, leased, or rented) for himself and his family (spouse and children).

| (SAR) .24 the completion and return of the SAR 3 or SAR 7, giving his or her current employment status, and all other factors normally used to compute the recipient's needs.

| (AR/CO) the completion and return of the AR 3, giving his or her current employment status, and all other factors normally used to compute the recipient's needs.

42-406 COUNTY WELFARE DEPARTMENT RESPONSIBILITY (Continued) 42-406

- .25 a notice to the applicant or recipient that his failure to respond to the inquiry will result in his ineligibility and termination of aid payments.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11265.2, Welfare and Institutions Code.

42-407 EVIDENCE OF RESIDENCE INTENTION 42-407

.1 Applicant or Recipient Physically Present in State

The written statement of the applicant or recipient is acceptable proof to establish his or her intention of establishing residence unless the statement is inconsistent with the conduct of the person, with other information known to the county, or with other statements on the SAWS 2, SAR 7, or recipient mid-period reports.

.2 Absence From the State

.21 If an applicant or recipient does not respond, within 30 days, to the monthly county inquiry of residence (Section 42-406), it shall be presumed that he does not intend to maintain California residency and aid shall be discontinued at the end of the month in which timely and adequate notice can be given.

.22 If the applicant or recipient responds to the inquiry, and advises the county that he does not intend to return to California, aid shall be discontinued at the end of the month in which timely and adequate notice can be given.

.23 If the applicant or recipient responds to the inquiry and advises the county that he intends to maintain his California residency but he remains out of state for 60 days or longer, his continued absence is prima facie evidence of the applicant's or recipient's intent to have changed his place of residence to a place outside of California subject to Section 42-407.24. Such absence in itself is sufficient evidence to support a determination that the applicant or recipient has established residence outside of California. Therefore, his intent to return must be supported by one or a combination of the following:

42-407	EVIDENCE OF RESIDENCE INTENTION (Continued)	42-407
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- .231 family members with whom the applicant or recipient lived, currently live in California.
- .232 the applicant or recipient has continued maintenance of his California housing arrangements (owned, leased or rented).
- .233 the applicant or recipient has employment or business interests in California.
- .234 any other act or combination of acts by the applicant or recipient which establishes his intent to reside in California.
- .235 even if the recipient's intent to reside in California is supported by .231 through .234, it may still be established that the recipient does not have the intent to reside in California if any of the following situations occur and are significant enough to negate the evidence that supports California residence:
 - a. The applicant or recipient has purchased or leased a house out of state since leaving California.
 - b. The applicant or recipient has been employed out of state since leaving California.
 - c. The applicant or recipient has obtained an out-of-state motor vehicle driver's license since leaving California.
 - d. The applicant or recipient has taken any other action which indicates his intent to establish residence outside of California.
- .24 Continuous absence of 60 days or longer shall not be prima facie evidence of the applicant's or recipient's intent to have changed his place of residence to a place outside of California where he clearly shows:
 - .241 he has not, by act or intent, established residence outside of California; and
 - .242 his return to California was prevented by illness or an emergency.
- .25 Repealed by Manual Letter No. EAS-92-02, effective 3/1/92.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11265.2, Welfare and Institutions Code; Senate Bill (SB) 991, Chapter 1285, Statutes of 1989; and WRL vs. McMahan, Case No. 268972 (Sacramento Superior Court), October 31, 1990.

42-415 PERSONS INCAPABLE OF CHANGING RESIDENCE 42-415

.1 Deprived of Freedom of Movement

The place of residence for persons who are deprived by court action of freedom of movement remains the same as at the time of the court action.

.2 Guardian or Conservator

The place of residence for one for whom there is a court appointed guardian or conservator of the person may be changed by decision of the guardian or conservator accompanied by removal of the ward or conservatee to another place.

42-416 PERSONS ON PAROLE 42-416

Persons on parole from correctional institutions may by intent establish residence.

42-417 PERSONS LIVING ON LAND LEASED OR OWNED BY THE UNITED STATES 42-417

Persons living within the boundaries of California on land leased by United States agencies from the state, its political subdivisions, or individuals, or on land owned by the United States, may by intent establish residence in the state.

42-421 RECIPIENTS FROM OTHER STATES 42-421

Recipients of categorical aid from other states who move to California with the intent to make their homes here shall be granted aid promptly, if otherwise eligible. County welfare departments shall work out cooperative arrangements with the other state to preclude any break in the receipt of assistance and to avoid the duplication of aid payments from two states.

42-422 CALIFORNIA RECIPIENTS MOVING TO OTHER STATES 42-422

.1 Recipients of categorical aid from California who move to another state and intend to make their homes there shall have aid discontinued from California immediately upon having aid granted by the other state.

.2 Exemptions from the residency requirement in 42-422.1 are as follows:

.21 A non-minor dependent placed with an approved relative who resides out-of-state.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11253(c), Welfare and Institutions Code.

42-423	NOTIFICATION TO APPLY IN ANOTHER STATE	42-423
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The county welfare department shall give written notification to all recipients who are living out of the state to immediately apply for aid in the other state unless intent to return to California is clearly established and if the intent is to return to California, that application need not be made in the other state but California welfare regulations continue to apply to them. The notice shall indicate that aid shall be immediately discontinued unless the recipient responds within thirty days, indicating either that application has been made in the other state or that California residence is being retained.

42-424	APPLICATIONS BY RECIPIENTS IN OTHER STATES	42-424
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When notification is received by the county from the recipient that application for aid is being made in the other state, direct communication with the appropriate state or local welfare department in the other state shall be initiated to coordinate the discontinuance of aid from California and the granting of aid by the other state. However, pursuant to W&IC Section 11103, aid shall not be continued by California beyond the end of the month following that in which the recipient applies for aid in the other state. If the person is not eligible for aid in the other state, aid shall be discontinued immediately upon notification of this by the person or the other state.

42-430	CITIZENSHIP AND NONCITIZEN STATUS	42-430
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Only citizens of the United States and certain categories of noncitizens are eligible for CalWORKs. Citizens must prove their citizenship and noncitizens must prove their eligible noncitizen status. Aid shall not be authorized until eligible noncitizen status is verified.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

42-431	ELIGIBILITY REQUIREMENTS	42-431
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As suggested in Section 42-430, to be eligible for assistance an applicant or recipient must be a California resident who is either:

- .1 A citizen of the United States (defined for eligibility determination purposes to include persons who, though not United States citizens, are nationals of the United States by reason of their birth in certain unincorporated United States territories such as American Samoa or the American Virgin Islands), or
- .2 A noncitizen who is:
 - .21 Lawfully admitted for permanent residence; or
 - .22 Permanently residing in the U.S. under color of law, including:

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- .221 Aliens lawfully present in the U.S. as a result of the application of the following provisions of the Immigration and Nationality Act.
 - a. Section 207(c), after March 31, 1980 - Aliens Admitted as Refugees.
 - b. Section 208 - Aliens Granted Political Asylum by the Attorney General.
 - c. Section 212(d)(5) - Aliens Granted Temporary Parole Status by the Attorney General.
- .222 Aliens granted status as Conditional Entrant Refugees pursuant to Section 203(a)(7) of the Immigration and Nationality Act in effect prior to April 1, 1980.
- .223 Aliens granted indefinite voluntary departure in lieu of deportation.
- .224 Aliens granted an indefinite stay of deportation.
- .23 A victim of trafficking, domestic violence or other serious crimes granted eligibility for certain public social services under Welfare and Institutions Code Section 18945.
- .231 The CWD must determine the status of individuals applying for benefits as victims of human trafficking, domestic violence or other serious crimes.

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- (a) Severe forms of human trafficking are defined in the U.S. Code, Title 22, Section 7102 (8) as: Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- (b) Sections 1101(a)(15)(U)(i) and (iii) of Title 8 of the U.S. Code define noncitizen victims of serious crimes as aliens who:
 - (1) Have suffered substantial physical or mental abuse as a result of having been victims of criminal activity involving, or similar to, the following violations: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy or solicitation to commit any of the above mentioned crimes; and,

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- (2) Possess information concerning criminal activity (or in case of an alien child under the age of 16, the parent, guardian, or adult representing the child); and
- (3) Have been helpful, are being helpful, or are likely to be helpful to a federal, state, or local law enforcement official, prosecutor, or judge or to other federal, state, or local authorities investigating or prosecuting criminal activities described above (or in the case of an alien child under the age of 16, the parent, guardian, or adult representative of the alien is helpful).

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.3 Eligible noncitizen trafficking, domestic violence or other serious crime victims who meet all other eligibility criteria for cash assistance shall be aided under the CalWORKS program. See MPP Section 40-105.26 for SSN exception.

.31 If not otherwise eligible under the CalWORKS program requirements, these individuals shall have their eligibility determined under the Trafficking and Crime Victims Assistance Program (TCVAP).

.4 Determination of Eligibility as a Victim of Human Trafficking: The county shall consider all forms of acceptable evidence as listed below.

.41 For purpose of determining eligibility as a victim of human trafficking (Section 42-431.23), the CWD shall consider all relevant and credible evidence. A sworn statement by a victim or a representative, if the victim is unable to competently swear, shall be sufficient to verify trafficking status, if at least one item of additional evidence is provided. This evidence includes, but is not limited to the following:

.411 Police, government agency, or court records or files;

.412 News articles;

.413 Documentation from a social services, trafficking or domestic violence program, or a legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with the crime;

.414 A statement from any other individual with knowledge of the circumstances that provided the basis for the claim;

.415 Physical evidence;

.416 A copy of a completed visa application;

.417 Written notice from United States Citizenship and Immigration Services (USCIS) of receipt of the visa application.

42-431 **ELIGIBILITY REQUIREMENTS (Continued)** **42-431**

- | .42 If the victim of human trafficking cannot provide additional evidence, a sworn statement shall be sufficient if the county makes a determination that the applicant appears to be credible.

- | .421 The CWD may use a generic "under penalty of perjury" form for the sworn statement that contains the applicant's declaration that s/he is a victim of human trafficking.

- | .422 The credibility of an applicant for purposes of accepting his/her sworn statement of trafficking status may be determined by applying the same standard used when determining credibility in domestic violence cases as defined in Section 42-712.12. The sworn statement is acceptable unless there is an independent and reasonable basis, documented in writing, for finding the applicant not credible.

- | .5 Determination of Trafficking Victim's Eligibility for Benefits and Services

- | .51 Once it has been determined that the applicant meets the definition of a victim of human trafficking, the CWD must verify that the applicant:
 - | .511 Has filed an I-914 application for T Nonimmigrant status (T Visa) with USCIS and the application has not been denied; or
 - | .512 Is preparing to file an application for a T Visa; or
 - | .513 Is otherwise taking steps to meet the eligibility conditions for federal benefits; or
 - | .514 Is a person for whom "continued presence" in the U.S. has been requested by federal law enforcement because s/he is assisting or willing to assist in the investigation or prosecution of human traffickers.

- | .52 The following documentation can be used in determining whether an applicant has filed or is preparing to file for a T Visa:
 - | .521 A confirmation receipt or letter from USCIS verifying an application has been filed; or
 - | .522 A copy of the application for a T Visa (form I-914); or
 - | .523 If an applicant has not yet filed for a T Visa, the applicant's statement that he or she intends to file or is taking steps to become federally eligible (e.g., working with a community-based organization to prepare to qualify for federal benefits, working with law enforcement, etc.) will be acceptable.
 - | (a) Documentation could also include statements from persons in official capacities, (e.g., law enforcement officials or victims advocates) who have assisted or are assisting the victim with the T Visa application or steps to becoming eligible.

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.53 "Continued Presence" is a status that allows trafficking victims assisting law enforcement to remain in the country during the course of a criminal investigation.

.54 Eligibility for state-funded services for trafficking victims shall be terminated if:

.541 The recipient has a final administrative denial of a T Visa application; or

(a) "Final Administrative Denial" means that an appeal of the visa denial has been unsuccessful or the time to appeal the denial has passed without an appeal having been filed, whichever comes first.

.542 The recipient has not applied for a T Visa within one year of the date of the CalWORKs application; or

.543 A request on behalf of the recipient for continued presence has not been made within one year of the date of CalWORKs application; or

.544 The recipient is issued a T Visa.

.545 When a trafficking recipient who is otherwise eligible receives his/her T Visa, the case is reviewed for Temporary Assistance For Needy Families (TANF) eligibility and application for SSN must be made in accordance with Section 40-105.21.

.6 Determination of Eligibility for Benefits and Services for Victims of Domestic Violence or Other Serious Crimes

.61 State-funded services for noncitizen victims of domestic violence or other serious crimes are available only when a request with USCIS for a U Visa has been filed, if otherwise eligible. This section also applies to individuals who have requested U Visa Interim Relief only if requested prior to October 17, 2007, if otherwise eligible. To be eligible under this section, the CWD must verify that these applicants:

.611 Have filed a formal application for U Visa (Form I-918 and required supplements) with USCIS for status under Section 1101(a)(15)(U)(i) or (ii) of the Title 8 of U.S. Code or have requested U Visa Interim Relief prior to October 17, 2007, if otherwise eligible.

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- .62 Acceptable documentation for verifying that an application for a U Visa has been filed or a request for U Visa Interim Relief was filed (U Visa Interim Relief is acceptable only if a request for U Visa Interim Relief was filed prior to October 17, 2007) includes, but is not limited to:
 - .621 A confirmation receipt or letter from USCIS verifying that a request has been filed; or
 - .62 The Notice of Action (form I-797) approving a U Visa or a request for U Visa Interim Relief (U Visa Interim Relief is acceptable only if a request for U Visa Interim Relief was filed before October 17, 2007); or
 - .623 A form I-797 which serves as a fee receipt for an employment authorization request based on a U Visa application; or
 - .624 A copy of the Petition for U Nonimmigrant status (Form I-918); or
 - .625 An Employment Authorization Document (EAD) issued under Category “A19” or “A20” for an approved U Visa petitioner.
- .63 Eligibility for state-funded services will continue until the recipient has a final administrative denial, as defined in Section 42-431.541(a), of a U Visa application or when the 48-month program limitation has been reached, whichever comes first.

NOTE: Authority cited: Sections 10553 and 10554, Welfare Institutions Code; SB 1569 (Chapter 672, Statutes of 2006); and SB 72 (Chapter 8, Statutes of 2011), Section 42. Reference; SB 1569 (Chapter 672, Statutes of 2006).: Sections 11454, 11454.2, 13283, 14005.2, and 18945, Welfare and Institutions Code; 8 United States Code 1182(d)(5)(B), 28 Code of Federal Regulations (CFR) Section 1100.35, 45 (CFR) Section 400.43; the Trafficking Victims Protection Act of 2000 (P.L. 106-386), Sections 107(b)(1)(A), (B), and (C).

42-433 PROOF OF CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS 42-433

A citizen must prove his/her citizenship to be eligible, as provided in Section 42-433.2. A noncitizen must prove that he/she is in one of the eligible categories described in Section 42-431.2 above, by presenting the appropriate documentation described in Section 42-433.31 below.

.1 Cooperation

Every applicant and recipient shall provide all information necessary to determine his/her citizenship or noncitizen status. An applicant or recipient whose citizenship or noncitizen status is evidenced by a document issued by the United States Citizenship and Immigration Services (USCIS) (e.g., a naturalized citizen or person whose American citizenship is derived from the citizenship of another person) must cooperate with USCIS when the county desires that his/her documentation be verified by USCIS (as when the documentation presented is believed by the county to be of doubtful authenticity). Any applicant or recipient who refuses to cooperate in the verification of his/her status shall not be eligible. See Sections 40-105 and 40-157.3.

42-433 PROOF OF CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS (Continued)42-433

.2 Documentation -- U.S. Citizens

- .21 United States Citizenship as defined in Section 42-431.1 shall be documented by a birth certificate, or similar proof of birth in the United States or United States Territory, U.S. passport, certificate of citizenship or naturalization provided by INS, or an identification card for use of a resident citizen in the United States (INS Form I-179 or I-197). If such evidence is not available, the applicant shall state the reason and submit other evidence which proves his/her birth in the United States or United States Territory, or his/her citizenship. Examples of other evidence: documents which show the date and place of the applicant's birth such as confirmation papers or church record of confirmation, school records, Indian agency records (if applicable), adoption decree (if birth in the United States or United States Territory is shown), copy of discharge from military service, marriage certificate, or affidavits, or declarations made under penalty of perjury, by persons with direct knowledge of (1) the date and place of the applicant's birth in the United States, or (2) the U.S. citizenship of the applicant's parents, or (3) facts concerning the applicant which would not exist if he/she were not a citizen.
- .22 An otherwise eligible person who states on the CA 2 that he/she is a United States citizen, but who cannot provide the documentation or other proof specified in .21 above shall be eligible in the absence of any conflicting evidence, for aid pending verification of citizenship for a period up to 90 days after the date of application, (restoration, or reapplication) pending verification of his/her status. For persons receiving aid, as of the effective date of these regulations, whose only proof of citizenship was a certificate of registration to vote, the county shall continue aid pending verification of status for up to 90 days after the date of the next redetermination or for up to 90 days after the date verification is requested if earlier. Efforts to obtain satisfactory documentation shall be undertaken by the recipient in this period (see Section 40-157.21). At the end of 90 days, aid to the recipient shall be terminated unless the county in assisting the recipient, determines an extension of time is necessary to obtain documentation. The extension of time shall be appropriate to the particular situation, but in no event shall extend beyond the next annual redetermination date. At that time, if no satisfactory proof of citizenship can be obtained, the recipient shall be terminated from aid.
- .23 Aid to a person receiving aid pending verification of citizenship under .22 above shall be terminated if during the period of documentation gathering:

42-433 PROOF OF CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS (Continued) 42-433

- .231 He/she refuses to cooperate with the county and/or INS in determining his/her citizenship (see Section 42-433.1).
- .232 The county verifies that he/she is not a citizen of the United States.

.3 Documentation - Noncitizens

- .31 Every noncitizen claiming eligible noncitizen status as defined in Section 42-431 shall be required to present documentation of that status, as follows:
 - .311 Noncitizens lawfully admitted for permanent residence (Section 42-431.21): USCIS Form I-551, or earlier forms I-151, AR-3 and AR-3a, if specifically endorsed to show legal right to reside permanently.
 - .312 Noncitizens granted asylum or refugee status (Section 42-431.221(a) and (b) and 42-431.222): USCIS Form I-94, annotated with the term asylum or asylee, refugee or conditional entry or entrant.
 - .313 Parolees (Section 42-431.221(c)): USCIS Form I-94 (Arrival-Departure Record -- Parole Edition) endorsed to show bearer has been paroled in the U.S. pursuant to Section 212(d)(5) of the Immigration and Nationality Act.
 - .314 Persons granted indefinite voluntary departure or an indefinite stay of deportation (Section 42-431.223 and .224): A court order or correspondence from USCIS stating that the individual has been granted this status.
 - .315 Noncitizen victims of trafficking, domestic violence or other serious crimes must provide the respective documentation as set forth in Sections 42-431.4 through .6.
- .32 A noncitizen who declares or presents documentation that he/she is lawfully present for temporary residence (e.g., a visitor whose period of admission has not expired) is not eligible except as noted in Sections 42-431.221(c) and .23.
- .33 Documentation submitted by the noncitizen applicant in accordance with .31 above which the CWD believes to be of doubtful authenticity shall be accepted as evidence of eligibility only if the applicant cooperates with the CWD and USCIS in verifying his/her status. See Section 42-433.1. A Document Verification Request (G-8454S) completed by the applicant shall be referred immediately to USCIS. If USCIS returns the G-8454S to the CWD and indicates that USCIS is unable to complete the verification process due to noncooperation by the noncitizen, the CWD shall delete the noncitizen from the AU. A noncitizen who has been deleted from the AU for this reason may complete another G-845S but shall not be reinstated to the AU until confirmation of eligible noncitizen status is received by the CWD from USCIS.
- .34 Where a noncitizen victim of trafficking (as defined in Section 42-431.23) is basing his or her eligibility on MPP Sections 42-431.512 through .514 and does not have documentation that can be verified by USCIS, he or she is not required to complete a G-845S; Document Verification Request.

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.4 Lack of Documentation

.41 If the noncitizen or naturalized/derivative citizen has no documentation of eligible status, the county welfare department shall inform the individual that:

.411 He/she may contact USCIS or otherwise obtain a USCIS document or other conclusive evidence verifying citizenship or eligible noncitizen status, or

.412 He/she may sign a G-845S, authorizing the county to contact USCIS to obtain the necessary verification.

.42 If a noncitizen or naturalized/derivative citizen authorizes the county to contact USCIS to obtain verification of the applicant's status, the CWD shall forward two copies of the G-845S to USCIS and retain a copy in the case file. When USCIS verification is returned to the CWD, the CWD shall notify the applicant.

.43 If the applicant does not wish to contact USCIS or give permission to the CWD to contact USCIS, the applicant may withdraw his/her application or the application shall be denied for noncooperation (see Sections 19-007.12 and 40-105.11).

.5 Receipt of G-845S from USCIS

When a noncitizen's eligibility has been confirmed by USCIS and the completed G-845S has been received by the CWD, the CWD shall resume processing the application and the beginning date of aid rules in Section 44-317 shall apply.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006). Reference: Sections 13283, 14005.2, and 18945, Welfare and Institutions Code; 8 United States Code 1182(d)(5)(B), 45 Code of Federal Regulations 400.43; The Trafficking Victims Protection Act of 2000 (P.L. 106-386), Sections 107(b)(1)(A), (B), and (C).

42-435 LANGUAGE FLUENCY **42-435**

If an alien applicant is not fluent in English, it shall be the duty of the county to provide an understandable explanation of documentation requirements in a language in which he is fluent.

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Repealed by Manual Letter No. EAS-91-14, effective 10/1/91.

NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code. Reference: 45 CFR 233.60, Section 3510 (October 1961), Federal Handbook of Public Assistance Administration, and Sections 10553, 10554, and 10604, Welfare and Institutions Code.

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Repealed by Manual Letter No. EAS-91-14, effective 10/1/91.

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Repealed by Manual Letter No. EAS-91-14, effective 10/1/91.

NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code. Reference: 45 CFR 233.60, Section 3510 (October 1961), Federal Handbook of Public Assistance Administration, and Sections 10553, 10554, and 10604, Welfare and Institutions Code.

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