



CDSS

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January 3, 2014

ALL COUNTY INFORMATION NO. I-02-14

REASON FOR THIS TRANSMITTAL

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

TO: ALL COUNTY WELFARE DIRECTORS
ALL CalWORKs PROGRAM SPECIALISTS
ALL CALFRESH PROGRAM SPECIALISTS
ALL COUNTY REFUGEE COORDINATORS
ALL COUNTY CONSORTIUM PROJECT MANAGERS

SUBJECT: CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO
KIDS (CalWORKs) PROGRAM: REQUIREMENTS FOR
ADEQUATE NOTICES

REFERENCES: CONFIDENTIALITY, FRAUD, CIVIL RIGHTS AND STATE
HEARINGS MANUAL OF POLICIES AND PROCEDURES (MPP)
SECTIONS 22-001 AND 22-071
TURNER v. MCMAHON, AND ALL COUNTY
INFORMATION NOTICE (ACIN) NO. I-151-82

The purpose of this ACIN is to emphasize to County Welfare Departments (CWDs) the importance of providing adequate Notices of Action (NOAs) to CalWORKs applicants and recipients, and to remind them of the elements needed for a NOA to be considered “adequate.” Adequate notices are required so the applicant or recipient has sufficient information to understand the action that is being taken on their application or CalWORKs case.

In 1983, the Turner v. McMahon consent decree set the rules (often referred to as “Turner rules”) that are used to develop adequate NOAs. The Confidentiality, Fraud, Civil Rights and State Hearings Division Manual of Policies and Procedures (MPP) §22-001(a)(1) describes adequate NOAs as “A written notice informing the claimant of the action the county intends to take, the reasons for the intended action, the specific regulations supporting such action, an explanation of the claimant's right to request a state hearing, and if appropriate, the circumstances under which aid will be continued if a hearing is requested, and for the CalWORKs Program, if the county action is upheld, that the aid paid pending must be repaid.”

Key Concepts

In many cases, the California Department of Social Services (CDSS) provides the language to be used for NOAs. The printed NOA forms are designed for specific types of action that will help the county worker provide adequate notice. In addition to filling in the appropriate blanks and checking the appropriate boxes on the NOA, the worker must assure that the notice is adequate. Every NOA sent must meet certain baseline criteria in addition to the regulatory definition in order to be adequate. Here are some key concepts to consider when creating NOAs for applicants and recipients.

The nature of what is said in the NOA is the central issue. The NOA is intended to be a personal communication to the applicant or recipient (client), addressing the client's unique circumstances and resulting CWD action to the client's cash aid. The NOA must provide specific information regarding items such as the amount of the family's cash aid and how it was calculated, reasons the aid amount changed, whose income was used to calculate the new grant amount, what income was used in the calculation, and/or other circumstances that may be causing the family's aid to be discontinued or changed.

In addition, each NOA must include client-specific information that is sufficient enough for the client to determine what the issue is, be able to understand the action taken, and decide if a request for a hearing is warranted. The worker should take the following into consideration to ensure the NOA is adequate under the guidelines provided in this letter and at MPP Sections 22-001 and 22-071:

- What does the client need to know to understand what is happening and why?
- Does the information provided enable the client to decide if he or she agrees or disagrees with the CWD's proposed action?
- Can the client understand if there is something he or she needs to do in response to the NOA to stop or change the CWD's proposed action?

Examples of client-specific information include, but are not limited to, the following:

- Effective date of action.
- Assistance Unit (AU) or household member affected.
- Source/nature of income or property used in the action.
- Amount of income/property and the time period involved.
- Time On Aid (TOA) calculations
- Reason for the Welfare to Work (WTW) supportive services action.

The recipient should be informed of what facts were used, including the detail of computations affecting the amount of aid. ACIN I-151-82 provides examples of how CWDs can list the reason for the action so that the rule, the facts, and the application of the facts to the rule are adequately explained.

When utilizing “drop down” menus in automation systems that provide non-case specific summaries, the use of “fillable” note or “free form” fields to enter the case specifics is recommended, and completion of these fields should be required of workers. CDSS suggests that the CWD/Consortia can take steps to ensure NOAs include sufficient, adequate information by preventing a NOA from being printed or mailed if the fields are not completed. Automation systems should not permit the batch mailing (i.e. without review) of incomplete notices. On review, the CWD must ensure that sufficient case-specific information is provided prior to sending the NOA. If the automation programming does not provide for all of the information for the NOA to provide adequate information, the needed information should be hand-completed by the worker who is taking the case action to meet the requirement that the NOA contain case specific information to the client.

Readability

Turner rules require that all NOAs be written at a 6th grade level in order to be understandable. Tips to ensuring a NOA is easily understood include the following guidelines:

- a. Use short, direct sentences;
- b. Use simple words that the client can reasonably be expected to understand;
- c. Avoid multi-syllable words and acronyms as often as possible;
- d. Avoid compound sentences or combined reasons by breaking them into two sentences;
- e. Explain complicated ideas.

Language and Disability Access

CWDs are reminded that the client must be given the opportunity to choose the language to be used for their notices, and the CWD must document the client’s language choice. The language preference document, if in English, must include a notation of the name/worker number of the person who provided the interpretation of the form.

If the CWD or CDSS does not have NOAs translated into the client’s preferred language, the CWD must explain that the NOAs will be issued in English, and that an interpreter will be provided at no cost to the client. In addition, If there is no CDSS translation and the CWD has not elected to translate the NOA, the English NOA must be sent to the client with a [GEN 1365-Notice of Language Services](#) (described later in this letter.)

The CWD must also provide a current telephone number and instructions on how to get an oral interpretation of the NOA, without a delay. CWDs may also choose to have NOAs translated into languages not provided by the CDSS. If CDSS has not provided the translation, the CWD must ensure that effective bilingual services are provided. This requirement may be met through utilization of paid interpreters, qualified bilingual

employees, and qualified employees of other agencies or community resources. These services shall be provided free of charge to the client.

Clients may use their own interpreter, but must not be compelled or encouraged to do so. The CWD should confirm that the self-provided interpreter is competent and should be a person who is of adult age, 18 years of age or older. The CWD should only allow a minor to act as a temporary interpreter under extenuating circumstances or at the request of the client. See All County Letter 08-65 for more information about using self-provided interpreters.

If CDSS has translated the NOA, the translated version must be sent, regardless of the size of that language population within the county. Thereafter, all NOAs are to be sent in that language, if translated by CDSS. If there is no CDSS translation and the county has not elected to translate the NOA, the English NOA is to be sent with the [GEN 1365- Notice of Language Services](#). MPP §21-115.16 requires the CWD to either provide the NOA in the client's preferred language or to provide an interpreter if CDSS does not supply a NOA in that language. The GEN 1365 includes a statement in 16 different languages that instructs clients to call the CWD if they need help understanding the NOA they received and includes a local telephone number for requesting interpretive services at no charge to the client.

The Confidentiality, Fraud, Civil Rights and State Hearings Division MPP §22-001(I)(1) sets out the requirements for a NOA to be language compliant. For translated NOAs, the "fill-in" portion of the NOA must also be in the language of the notice, including the informing notice on the reverse side (NA Back 9) (MPP §21-115.2).

In regards to clients who have literacy or learning disability issues that interfere with their ability to read or understand written instructions, the CWD must flag the case as requiring reasonable accommodation, and provide the accommodations when sending out a NOA. This can include but is not limited to a message on the NOA to call the CWD if the client has any questions, provide a follow up call to advise the client of the county action, to call the CWD for an oral explanation if he/she receives paperwork, or for the visually impaired clients, sending the notice in large print.

Specific Regulations

As explained in ACIN I-151-82, the body or text portion of a NOA must explain the "essence" of the rule (in addition to the reason why the action is being taken). For example, the income eligibility rule at MPP §44-207.2 is that the family's countable income must be below the Maximum Aid Payment for their family size. The "essence" of this rule, which must be explained in the body of the NOA in text, is "income, unless it is a type that we do not count against your grant, must be below the grant level for your family size in order to be eligible." The specific facts would go on to say what income the family has, why the CWD is using a different amount from what the client reported, whether any of the income may have been excluded and why, and how the grant was calculated.

The NOA must also list the specific regulations that support the CWD's action. While CWDs can include a citation to the general regulatory section (such as income), it must also include the specific citations to the regulations that apply in this specific case action. For example, NOAs regarding case actions based on income, must also include a specific citation that covers the type of income used in the grant calculation and any other regulations used to support the action taken by the CWD (e.g. Manual of Policies and Procedures Section 44-111 if excluding any income.)

Checklist

CWDs can use the following checklist to test the adequacy of a NOA. Though individual elements of the NOA can be tested with the questions below, the ultimate test is whether the NOA, as a whole, clearly provides the recipient with the information he/she needs as described above.

- Effective date shown?
- Description of the action complete?
- Amount of the aid payment shown?
- Reason for the action given?
 - Basis in state regulation described?
 - Cited?
 - Family's circumstances that caused action shown?
- All pertinent computations provided in adequate detail and specifically identified with the persons to whom they pertain?
- Statement of information needed to reestablish eligibility or determine the correct amount of aid? (Use when pertinent.)
- Denials and discontinuances: Standard child support and family planning statements provided?
- Entire notice complete with adequate detail?
- Language clear and understandable?

If you have any questions regarding this letter, please contact your assigned CalWORKs County Consultant or call the CalWORKs Eligibility Bureau main line at (916) 654-1322.

Sincerely,

Original Document Signed By:

KÄREN DICKERSON, Chief
Employment and Eligibility Branch

c: CWDA
CSAC