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# **A Guide for Advocates on CalWORKs and Domestic Violence**

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# I. Introduction<sup>1</sup>

A majority of CalWORKs recipients are also likely to be survivors of domestic violence. Several studies of families on welfare have found that roughly two thirds of recipients have been physically abused at some point in their adult life, and that one in five has been abused in the past year.<sup>2</sup>

Welfare is a lifeline to safety for many survivors of abuse. Batterers often exert economic control over their partners and deprive them of access to family resources. Welfare might provide the only means of support for survivors and their children to escape and live free of violence. Without welfare, many survivors would be forced to choose between homelessness and remaining in an abusive relationship. Eighteen percent of CalWORKs applicants in one California county indicated that domestic violence was a factor in their applying for aid.<sup>3</sup>

Once on welfare, domestic violence may impact a survivor's ability to meet the various CalWORKs requirements. Batterers frequently sabotage their current or former partners' participation in work, school or training activities. Abusers may stalk or harass their partners at work or school, destroy work clothes or equipment, beat their partners in visible places so they are too embarrassed to leave home, or otherwise undermine their partners' efforts towards economic independence.<sup>4</sup> Abuse survivors may have difficulty complying with welfare-to-work activities because they need time for emotional healing, relocation, court appearances, and other issues related to the abuse. Other CalWORKs restrictions – such as the Maximum Family Grant rule or the requirement to cooperate in child support enforcement - may also pose obstacles for abuse survivors. Fortunately, there are CalWORKs provisions that recognize the unique difficulties faced by domestic violence survivors, including exemptions from rules that may place survivors and their children in danger. These provisions are critical to ensure that survivors are not penalized for failure to meet requirements that increase their risk of abuse.

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1. Many thanks to Jodie Berger of Legal Services of Northern California and Kate Meiss of Neighborhood Legal Services of Los Angeles County for their feedback on this guide.

2. A study of CalWORKs recipients in Kern County and CalWORKs applicants in Stanislaus County found even higher rates of domestic violence: 80% of the Kern County recipients and 83% of the Stanislaus County applicants reported abuse at some point in their life; and 40% of the Kern County recipients and 52% of the Stanislaus County applicants reported domestic violence within the last year. Joan Meisel, Daniel Chandler, & Beth Rienzi, "The CalWORKs Project: Domestic Violence Prevalence and Effects on Employment in Two California TANF Populations," California Institute for Mental Health (January 2003), p. 7, 18, available at [www.cimh.org](http://www.cimh.org). Over half of the persons interviewed over a three year period were found to need domestic violence services at some point during that period. *Id.*, at p. 8. See also, University of Massachusetts Boston, "In Harms Way? Domestic Violence, A.F.D.C. Receipt and Welfare Reform in Massachusetts," February 1997; Jody Raphael, "Trapped by Poverty, Trapped by Abuse: New Evidence Documenting the Relationship Between Domestic Violence & Welfare," Taylor Institute: April 1997.

3. Joan Meisel, Daniel Chandler, & Beth Rienzi, "CalWORKs Programs: Alcohol and Other Drugs, Mental Health, and Domestic Violence Issues: Need, Incidence, and Services," California Institute of Mental Health (February 2002), p. 8 available at [www.cimh.org](http://www.cimh.org).

4. Jody Raphael, "Prisoners of Abuse: Domestic Violence & Welfare Receipt," Taylor Institute: April 1996.

This advocacy guide will review the various legal options that are available to domestic violence survivors under federal and state welfare law and the obligations incumbent on welfare workers who are serving domestic violence survivors. These include the family violence option, the good cause claim for non-cooperation with child support efforts, welfare-to-work plan provisions, eligibility for battered immigrants, and other miscellaneous provisions that provide valuable advocacy tools for serving this population.

Advocates for CalWORKs recipients should ask clients about domestic violence in a sensitive, confidential manner. Similarly, advocates for abuse survivors should ask clients whether they receive CalWORKs. Domestic violence survivors should be apprised of their rights and options under CalWORKs. Advocates who do not have domestic violence expertise should collaborate with a local domestic violence program to ensure that they handle domestic violence issues sensitively and that clients receive appropriate information about legal options and community resources.<sup>5</sup>

In California, as with other CalWORKs provisions, while the state sets certain minimum guidelines, each county is responsible for creating its own domestic violence protocol. Advocates should review local protocols to determine whether these protocols are in compliance with state and federal law and to explore whether the protocols provide additional tools that prove useful for clients. Since state regulations merely create a floor, advocates can also seek to create model protocols in their counties.

## II. What Are Abuse Survivors' Options Under CalWORKs?

### Definition of Abuse in CalWORKs Regulations

The definition of abuse adopted in state CalWORKs regulations is:

“..assaultive or coercive behavior which includes physical abuse, sexual abuse, psychological abuse, economic control, stalking, isolation, threats, or other types of coercive behaviors occurring within a domestic relationship.”<sup>6</sup>

Domestic relationship is defined as including: current or former spouses, cohabitants, fiancés, dating or sexual partners; persons related by blood, adoption, or marriage; and persons who have a child in common.<sup>7</sup> Abuse against minor children of persons listed above is also considered domestic abuse. An adult or minor who acts in concert with or on behalf of a perpetrator listed above is also considered to be perpetrating abuse.

5. To find out about domestic violence programs in your local area, call the California Partnership to End Domestic Violence at (800) 524-4765 or the National Domestic Violence Hotline at (800) 799-SAFE.

6. California State Department of Social Services Manual of Policies and Procedures (hereinafter MPP) § 42-701.2(d)(3).

7. MPP § 42-701.2(d)(4).

## A. Family Violence Option

The 1996 federal welfare reform law, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA),<sup>8</sup> recognized some of the unique barriers domestic violence survivors face. The PRWORA provided states with the option, commonly known as the Family Violence Option, to enact provisions to address these barriers.<sup>9</sup> California has elected to include the Family Violence Option in the CalWORKs program.<sup>10</sup> This option has three components. County welfare departments must (1) identify applicants who are abuse victims while protecting confidentiality; (2) refer abuse victims to domestic violence supportive services; and (3) waive CalWORKs requirements that an applicant cannot meet due to abuse.<sup>11</sup> The first two provisions are discussed in Section III below.

### 1. Waivers

The most powerful provision of the Family Violence Option is the ability of counties to waive any program requirement that would make it more difficult for an abuse survivor or her/his children to escape abuse or that would be detrimental to or unfairly penalize past or present victims of abuse.<sup>12</sup> Requirements that may be waived include, but are not limited to:

- time limits on receipt of assistance<sup>13</sup>
- work requirements<sup>14</sup>
- educational requirements<sup>15</sup>
- paternity establishment and child support cooperation requirements<sup>16</sup>
- Maximum Family Grant (MFG) provisions.<sup>17</sup>

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8. Pub.L.No. 104-193, Stat 2214, codified at 42 U.S.C. §601 *et. seq.* (1996), amending 42 U.S.C. § 601 *et seq.*

9. Sec 402(a)(7) of the Soc. Sec. Act (42 U.S.C. § 602(a)(7)); 45 C.F.R. §§ 260.50-260.59.

10. California Welfare & Institutions Code (hereinafter WIC) § 11495, *et. seq.*; MPP §§ 42-715.5 and 42-713.221

11. 42 U.S.C. § 602(a)(7); 45 C.F.R. § 260.50-260.59; WIC § 11495, *et. seq.*; MPP §§ 42-715.5, 42-713.221

12. WIC § 11495.1(a)(3); MPP § 42-715.5.

13. WIC §§ 11320.3(f)(2), 11495.1(a)(3); MPP §§ 42-302.12, 42-302.21(c).

14. WIC § 11495.1(a)(3), MPP §42-715.512.

15. WIC § 11495.1(a)(3).

16. WIC § 11495.1(a)(3).

17. 42 U.S.C. § 602(a)(7); California Department of Social Services All County Information Notice (ACIN) 1-02-06, p. 3, Attach. p. 3, Q. 11. See section II.A.3. below for a detailed discussion of MFG waivers.

### **Advocacy Tip on Possible Domestic Violence Waivers:**

State law is clear that "any program requirement" can be waived, and waivers are not limited to welfare-to-work requirements.<sup>18</sup> In addition to the requirements listed earlier that are specifically enumerated in the law, other requirements that might be waived, where there's a connection to the abuse, include but are not limited to:

- the requirement that teen parents live in an adult-supervised setting;
- limitations on assistance when the child is absent from the home for a certain number of days;
- the rules governing the Self-Initiated Program (SIP) program<sup>19</sup>
- any penalty or sanction, including reduction or termination of assistance, for failure to comply with a program requirement;
- possibly overpayments caused by domestic violence.

The only program requirements that cannot be waived concern: the prohibition on receipt of assistance to persons convicted of drug offenses;<sup>20</sup> immigration status requirements;<sup>21</sup> deprivation, assets, income and homeless assistance.<sup>22</sup>

In order to be "federally recognized," a domestic violence waiver must be accompanied by a service plan and be re-evaluated every six months.<sup>23</sup> Waivers that are federally recognized

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18. WIC § 11495.1(a)(3); ACIN 1-02-06, p. 3. The statute also provides that a county may waive program requirements for abuse survivors when good cause exists pursuant to Welf. & Inst. Code § 11320.3(f)(2). Welf. & Inst. Code § 11495.15. Examples that may constitute good cause for waivers include but are not limited to: 1) The participant is fleeing the abuser and is in temporary housing or is homeless; 2) The participant has entered a shelter; 3) The participant is concerned about the safety of his/her children; 4) The participant is a party to a restraining order or divorce action against the abuser; or 5) The participant and/or the children are undergoing counseling to cope with the effects of the abuse. MPP § 42-713.221(b).

19. ACIN 1-02-06, Attach. p.4, Q.15.

20. ACIN 1-02-06, Attach. p. 3.

21. ACIN 1-02-06, Attach. p. 3.

22. MPP § 42-715.511. It is confusing that "homeless assistance" is in this list, given it is not a "program requirement," and given that there is a special exemption to limits on homeless assistance for abuse survivors. As reviewed later, domestic violence survivors may receive homeless assistance every 12 months, while most other individuals can only receive it once in a lifetime. Perhaps these regulations referred to the previous inability of county welfare departments to waive the program requirement that third party verification of abuse needed to be provided for homeless aid. That requirement was changed by statute in 2007 and a self-declaration of abuse for homeless assistance is now allowed. See page 16 for a discussion of homeless assistance for abuse survivors. It is worth noting that these waiver exceptions do not exist in the state domestic violence waiver statute, and that the MPP regulations list only deprivation, income, assets and homeless assistance as non-waivable requirements. The waiver exceptions for immigration and drug felony are found only in ACIN 1-02-06.

23. 45 C.F.R. § 260.55.

can give a state potential benefits in meeting federal requirements concerning the CalWORKs caseload.<sup>24</sup> The service plan must be developed by someone who has training in domestic violence, be individually tailored to the recipient, and be designed to lead to work, as long as this would not endanger or unfairly penalize the recipient.<sup>25</sup> The preamble to the federal regulations provides that states should not view service plans as additional requirements.<sup>26</sup> In other words, abuse victims should not be sanctioned if they are unable to fully comply with a service plan.

Counties still have the authority to grant domestic violence waivers unaccompanied by service plans, but cases with these waivers will not be “federally recognized,” and thus cannot be used to provide a county potential relief if they are not meeting their work participation rates. Many counties will use welfare-to-work plans and forms to set forth the “domestic violence service plan.”

**Advocacy Tip on Service Plans:**

Advocates must ensure that a service plan does not put clients in further danger or re-victimize them. Welfare departments should not require recipients to choose any particular kind of service (i.e., counseling, restraining order, criminal prosecution), as the type of service dictated might be inappropriate or put the client at increased risk. The law requires an individualized assessment for each recipient.<sup>27</sup> Nor can the county require a recipient to obtain a temporary restraining order; only the individual can determine whether a TRO or other recourse is a safe and appropriate step to take.<sup>28</sup> The decision of what service is most appropriate should be left up to the recipient, in consultation with a domestic violence expert.

**A recipient can request a domestic violence waiver at any time.** There is no time limit for an individual to make such a request.<sup>29</sup> Individuals can request retroactive waivers.<sup>30</sup> For example, individuals can request waivers for past months in which they were experiencing abuse even though they did not request waivers at that time. They can request current waivers for past abuse if they are still dealing with the effects of past abuse. The jurisdictional barriers that may

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24. States that provide family violence waivers will not be penalized for failing to meet federal work participation rates or failing to comply with the percentage of the caseload that has been on aid for more than 5 years if they can document that they have failed to meet these requirements due to domestic violence waiver cases, and if their waivers are “federally recognized good cause domestic violence waivers.” 45 C.F.R. §§ 260.55, 260.58-59.

25. 45 C.F.R. § 260.55. As of the date of this writing, California has not yet implemented a statute or regulation to respond to the federal requirements, although counties may have local requirements for service plans.

26. 64 Fed. Reg. 17744-17745 (1999)

27. MPP § 42-715.21; ACIN 1-02-06, Attach. p. 2. Q. 5.

28. ACIN 1-02-06, Attach., p. 2. Q. 8.

29. ACIN 1-02-06, Attach., p. 3, Q. 10

30. ACIN 1-02-06, Attach. p. 2, Q. 6.

prevent the retroactive receipt of benefits in other contexts may not apply with retroactive domestic violence waivers.

Recipients who receive a domestic violence waiver and then move to another county should be assisted in trying to maintain the waiver in the new county if it is still necessary. As of the writing of this guide, the California Department of Social Services is working on an All County Information Notice that would help to clarify the **intercounty transfer** process to ensure the seamless provision of domestic violence services and waivers when an abuse survivor needs to move between counties.

## 2. Lifetime Clocks

Adults cannot receive CalWORKs for more than 60 months over their lifetime, unless they qualify for an exemption.<sup>31</sup> Certain months do not count towards this limit, such as where the county finds good cause to waive the limits based on domestic violence.

The 60-month time limit may be waived for abuse survivors based on the need for continued assistance due to current or past domestic violence or the risk of further violence.<sup>32</sup> Survivors' aid should not be cut off when they reach the 5-year limit if they still need assistance to overcome the effects of the abuse. They should be able to return for assistance if the need recurs.<sup>33</sup> The abuse need not be ongoing -- dealing with the effects of past abuse is sufficient. In addition, months can be restored to the 60-month clock if the person requests a waiver after the fact (e.g. after they go off aid, and then realize they should have gotten a waiver for several years before they hit the 60 month limit). For a good county policy on domestic violence and time clocks, see the Alameda County Social Services Agency policy, attached as Appendix C.

Unless local county rules dictate otherwise, a recipient who requests a Family Violence Option waiver of work requirements will not automatically receive a waiver of the 60 month time clock. Advocates should explicitly request a waiver of this time limit concurrently with the request for the waiver of work requirements. Of course, it is always possible to request a waiver of time limits at a later point, when a client's clock is about to run out. However it is the better practice to request that the clock stop when the recipient is receiving a waiver and not able to benefit fully from welfare-to-work services.

Note that it is to a county's advantage to waive time limits on receipt of aid for domestic violence survivors, because doing so may help the state to meet its federal TANF requirements. Federal law penalizes states when more than twenty percent of the caseload has been on aid for

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31. See WIC §§ 11320.3(b), 11454(e), and 11454.5 for other possible exemptions.

32. 45 C.F.R. § 260.59(a)(2)(i). Thus even if there is no ongoing abuse at the time the recipient's five year clock runs out, if there was abuse in the past while the recipient was on CalWORKs, they may be able to get a waiver of the time clock.

33. 64 Fed. Reg. 17746.

more than 60 months.<sup>34</sup> However, if a state can show that more than 20% of its caseload has been on aid for more than five years because of domestic violence waivers, the state will not be penalized, so long as the waivers are “federally recognized good cause waivers.”<sup>35</sup> The recipient’s case file should therefore contain a copy of the domestic violence service plan if one exists. (See section A.1 above.)

### 3. Maximum Family Grant Waivers (Family Cap)

The maximum family grant (MFG) rule prevents individuals on aid from receiving additional money for children born into a family that has been on aid for a period of time. In addition to the exceptions to the rule set forth in the MFG statute,<sup>36</sup> the rule may be waived for victims of domestic violence.<sup>37</sup> As with other Family Violence Option waivers, the recipient would need to show that the rule’s application would make it more difficult for her/him to escape abuse, be detrimental, or unfairly penalize her/him. For instance, the conception might be the result of forced sex, refusal to allow the use of birth control, or threats to the recipient that prevented her from practicing birth control or terminating the pregnancy.<sup>38</sup> In addition, the waiver may be granted even if the pregnancy or birth wasn’t the direct result of abuse; it might be that the application of the rule would unfairly penalize the person or make it more likely that the family would have to stay with the abuser. For example, a recipient may not be able to live with her children independently of the abuser without the additional aid. Because domestic violence waivers can be retroactive, retroactive cash aid may be awarded for the MFG child(ren) back to the birth of the child. The MFG rule could be waived permanently for a child even if the abuse situation is resolved or no longer exists.<sup>39</sup> Each county must adopt its own policy and criteria for such domestic violence MFG waivers.<sup>40</sup>

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34. 45 C.F.R. § 264.1.

35. 45 C.F.R. §§ 260.55, 260.59.

36. Welf. & Inst. Code § 11450.04; MPP § 44-314.

37. ACIN 1-02-06.

38. 42 U.S.C. § 602(a)(7); ACIN1-02-06, Attach. p. 3, Q. 11.

39. ACIN1-02-06, Attach. p.3, Q.11.

40. For an excellent domestic violence MFG policy, see the Los Angeles County Department of Public Social Services, Administrative Directive Number 4653, available from Kate Meiss at Neighborhood Legal Services of Los Angeles County at [kmeiss@nls-la.org](mailto:kmeiss@nls-la.org).

#### 4. Duration of Waivers

Both federal and state law make clear that waivers should be granted **for so long as necessary**.<sup>41</sup> However, in order for a waiver to be “federally recognized,” it must be re-evaluated at least every six months.<sup>42</sup> Additionally, counties can establish their own duration requirements as long as they comply with federal and state regulations.<sup>43</sup> Many counties reevaluate waivers every three months.<sup>44</sup>

#### 5. Evidence of Abuse

In order to obtain a waiver, the welfare recipient must provide some evidence of the abuse. **A recipient’s own sworn statement shall be sufficient to establish the abuse**, unless the welfare agency documents in writing an independent, reasonable basis to find the recipient not credible.<sup>45</sup> As of December 2008, the California Department of Social Services was in the process of developing a standard form that counties could give to CalWORKs recipients to use to request a domestic violence waiver. For an example of a sworn statement form to use before then, see Appendix A for a form that is used in San Francisco. Any sworn statement should suffice, however, and it need not be in any particular format.

If the individual wants to give additional evidence, does not want to give a sworn statement, or if that statement is found not credible, the law gives examples of other kinds of evidence individuals can provide. Specifically, evidence supporting a good cause claim includes but is not limited to:

- Police, governmental agency, or court records; documentation from a domestic violence program or a legal, clerical, medical, mental health, or other professional from whom the applicant or recipient has sought assistance in dealing with abuse; physical evidence of abuse; or any other evidence that supports the claim of good cause;
- Statements under penalty of perjury from individuals, including the applicant or recipient, with knowledge of the circumstances that provide the basis for the good cause claim;

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41. 42 U.S.C. § 602(a)(7)(A)(iii); MPP § 42-713.221.

42. 45 C.F.R. § 260.55.

43. MPP § 42-715.52.

44. Re-evaluation of domestic violence waivers logically applies only to welfare-to-work waivers and not to “one time” waivers like MFG waivers, where the underlying facts which support the waiver will not change over time.

45. WIC § 11495.25; MPP § 42-715.12.

- Birth certificates or medical, mental health, rape crisis, domestic violence program, or law enforcement records that indicate that the child was conceived as the result of incest or rape.<sup>46</sup>

## 6. Denials and Approvals of a Waiver

Counties must issue a Notice of Action when a domestic violence waiver is denied or granted.<sup>47</sup> The notice should include enough information to allow the person to understand what has happened and whether to appeal the agency’s action. For instance, with an MFG waiver that includes several children, the notice should inform the person what months and what amounts of cash aid were approved retroactively for each child. Recipients may request a hearing to contest a denial (or partial approval) of a domestic violence waiver.

### B. Child Support Good Cause Claim for Non-Cooperation

A particular area of concern for many abuse survivors receiving CalWORKs is the requirement to cooperate with the Child Support Agency in establishing paternity and collecting child support.<sup>48</sup> Abuse survivors who fear that such cooperation would endanger them or their children can request a “good cause” exemption from the child support cooperation requirement. Recipients may claim good cause if efforts to establish paternity or establish, modify, or enforce a support obligation would increase the risk of physical, sexual, or emotional harm to the child or increase the risk of abuse to the parent or caretaker, or if the child was conceived as a result of incest or rape (which often occurs where there is domestic violence).<sup>49</sup> There is also a catch-all clause that good cause can be claimed if there is any other reason that would make efforts to establish paternity “contrary to the best interests of the child.”<sup>50</sup> If the county welfare department determines that an individual has good cause for not cooperating in child support services, it shall not refer the individual to the Child Support Agency.<sup>51</sup> If a recipient raises good cause at a later date, the Child Support Agency should immediately suspend child support services until the welfare department can determine the good cause claim.<sup>52</sup>

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46. WIC § 11477.04(c)-(d); MPP § 42-715.121.

47. ACIN 1-02-06, Attach. p. 3, Q. 9.

48. 42 U.S.C. § 608(a)(3)(A); WIC § 11477(a)(1); MPP § 82-506.1.

49. WIC § 11477.04. Other grounds for a good cause claim include: adoption proceedings for the child are pending or the parent is being assisted by an adoption agency, the applicant cannot in good faith help locate the alleged father, or any other reason that pursuing support would be contrary to the best interests of the child. WIC § 11477.04. It is worth noting that the state’s non-cooperation regulations do not contain the statutory exception for unknown whereabouts/ unknown parent. In such cases you may have problems with your local welfare department. But a sworn affidavit that the person is cooperating to the best of their ability and lacks the requisite information should suffice. Form DCSS 870 is used for this purpose. WIC 11477.04(b)(6); ACL 07-51, p.2; ACL 97-65, pp. 2-4.

50. WIC § 11477.04(b)(7), MPP § 82-512.15.

51. WIC § 11477.02.

52. WIC § 11477.02; ACL 07-51.

The standard for proving abuse is the same as set forth above under the discussion of the Family Violence Option -- a sworn statement by a victim shall be sufficient to establish abuse unless the agency documents in writing an independent, reasonable basis to find the recipient not credible.<sup>53</sup> In that case, other proof may be required.

Finally, note that survivors can also request a waiver of the child support cooperation requirement under the Family Violence Option. However, claiming good cause for non-cooperation may be preferable to a Family Violence Option waiver as there is no duration limit, six month re-evaluation, or service plan requirement under the child support good cause provisions.

**Advocacy Tip on Pursuing Child Support While Meeting Safety Needs:**

Some abuse survivors may have safety concerns about pursuing child support but may still want the other parent to pay support. In these cases, work with the local child support office to create a strategy that will allow the client to pursue support and stay safe. Examples of steps to take include:

- Notifying clients in advance when the other parent will be served with papers;
- Excusing clients from attending court hearings where they would encounter the abuser, if that is possible;
- If clients must be at court hearings, asking the abuser to wait in the courtroom for fifteen minutes after the hearing to give clients a chance to leave safely;
- Ensuring that no identifying information about clients' home or work addresses is revealed.

## **C. Welfare-to-Work Activities**

### **1. Tailoring Welfare-to-Work Plans to Meet the Needs of Abuse Survivors**

Many domestic violence survivors are not only ready and able to work, but view work as necessary in order to gain financial security and independence from the batterer. Rather than, or in addition to, opting for a domestic violence exemption from welfare to work, these survivors might prefer assistance in tailoring a work or job training plan to address their confidentiality and safety needs and allow for flexibility to deal with issues related to the abuse. Others may opt to be excused from welfare-to-work requirements until they have dealt with the abuse and their lives are more stable. Both types of families can be accommodated under the state welfare-to-work policies. All recipients have the right to get assistance in developing an appropriate

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53. WIC 11477.04(d).

welfare-to-work or domestic violence services plan, or a waiver of such a plan.<sup>54</sup> Such assistance must be provided by staff that is trained regarding domestic abuse.<sup>55</sup>

**Advocacy Tip on Tailoring Work Plans for Abuse Survivors:**

Advocacy assistance can be critical to ensure the welfare-to-work plan integrates needs for safety, confidentiality and emotional healing. Tailoring a work plan to meet a survivor’s needs might mean ensuring that the recipient works at a job site that has good security, or ensuring that the location of the recipient’s work placement remains confidential. It might mean allowing for flexibility to accommodate legal obligations or other activities related to the abuse.

**2. Domestic Violence Services That Are Part of a Welfare-to-Work Plan**

Generally, single parents on CalWORKs must participate in welfare-to-work activities for at least thirty-two hours per week to retain aid.<sup>56</sup> “Domestic violence services” that are necessary to obtain and retain employment may count towards welfare-to-work activities.<sup>57</sup> These domestic violence services might include such things as: participation in abuse counseling for individuals and/or their children, legal services and court proceedings related to the abuse, medical treatment, relocation activities, naturalization classes for immigrant battered women, and substance abuse services. An abuse survivor might benefit more, however, from a partial or full waiver, and/or from being an “exempt volunteer.”

**Advocacy Tip on Waivers vs. Domestic Violence Services That Are Part of Plan:**

Abuse survivors who need time off to obtain domestic violence services may have various options available to them in the CalWORKs program. They might be able to: (1) waive entirely their participation in welfare-to-work activities under the Family Violence Option; (2) waive the number of hours they are required to participate (for example work for only 20 hours per week);<sup>58</sup> (3) obtain a domestic violence waiver and then volunteer in welfare-to-work activities for up to 32 hours per week; or (4) have domestic violence services be all or part of their welfare-to-work plan.

54. MPP § 42-715.2. Many county welfare departments provide training in domestic abuse to their own staff to provide such services. Some even contract out to domestic violence agencies to assist with domestic violence services but have their staff develop welfare-to-work plans/waivers. The key is that the staff must be adequately trained.

55. MPP § 42-715.

56. WIC § 11322.8(a), MPP § 42-711.411 (a) and (b).

57. WIC § 11322.6(q); MPP § 42-715.211(d). Outside of job search activities, domestic violence services are not countable for federal purposes, so some counties may be hesitant to include them as part of a recipient’s welfare-to-work plan. However state law is clear that domestic violence services are a permissible activity, and the county must tailor welfare-to-work plans to the individual recipient’s needs.

58. The number of work hours is not specifically listed in state law or regulations as a requirement that can be waived. However since the law clearly allows any program requirement to be waived, the hour requirement should be waivable. WIC § 11495.1(a)(3); MPP § 42-715.512.

Advocates should consider the impact of these various options on the following issues:

- How will the choice affect the client's time clocks? (Clients requesting waivers should simultaneous request to stop the clock)
- How will the client's choice affect her/his ability to access county reimbursement for child care, transportation, or other ancillary expenses?<sup>59</sup>
- Which option best meets the client's needs related to the abuse and her/his readiness or ability to engage in work activities?

The county has the option of stopping the clock for persons who have a waiver, so in most cases a waiver will be more advantageous for clients than having domestic violence services that are all or a large part of a plan in which the clock does not stop.<sup>60</sup> If the plan is for less than 32 hours, advocates have successfully argued the time clock should be stopped (waived) because having the clock tick while the person is engaged for less than 32 hours unfairly penalizes the family due to their domestic violence status.

**Exempt Volunteers:** The best option for clients who want to work or go to school but are suffering from abuse or its effects may be to obtain a waiver and then "volunteer" to do a certain number of hours of welfare-to-work activities.<sup>61</sup> Such exempt volunteers (as well as those with a domestic violence service plan) are entitled to supportive services such as transportation or child care that are necessary for their plan.<sup>62</sup> In other words, exempt volunteers can participate in welfare-to-work activities at their own pace, while their time clock stops, they get supportive services, and there is no risk of sanctions.

Domestic violence agencies may have legitimate concerns over releasing to the welfare department confidential information about the kinds of services they are providing clients. All efforts are to be made by the counties to preserve the confidentiality and integrity of the service provider-recipient relationship when reviewing an individual's participation in abuse services that are part of the welfare-to-work plan.<sup>63</sup> In San Francisco and Los Angeles, for example, domestic violence service providers need verify only the number of hours that the recipient is receiving services, but not the content of those services.<sup>64</sup> In Los Angeles, to get transportation

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59. Persons with waivers generally do not have the right to be reimbursed for these kinds of expenses unless a county's local plan dictates otherwise, or unless they need them to participate in a service plan or a volunteer welfare-to-work plan. WIC §11323.2(a) only requires a county to provide supportive services to recipients that need them "in order to participate in the program activity to which he or she is assigned or to accept employment."

60. MPP §§ 42-302.21(c); 42-710.65; 42-713.221; ACL 99-90.

61. WIC § 11320.3(c); MPP § 42-712.5.

62. MPP §42-750.11; ACL 04-04, # 11; ACIN 1-70-99, p. 2; ACIN 1-02-06, Attach. p. 2, Q. 7.

63. MPP § 42-715.3.

64. See San Francisco Human Services Agency, CalWORKs Eligibility Handbook, § 50-31, p. 3.

payments the providers need only reveal the total number of miles driven, not the address of any location to which the person travels.

In addition, when a County Department contracts with outside agencies for domestic violence services, it cannot require that the agency provide to the Department the names and certain other personally identifying information of the persons being served.<sup>65</sup>

## **D. Eligibility for Abused Immigrants**

### **1. VAWA, T Visa, and U Visa Eligibility**

Certain categories of non-citizen abuse victims who would otherwise be ineligible for public benefits are eligible for CalWORKs:

- Persons who have self-petitioned for legal status or for suspension of deportation/cancellation of removal under the Violence Against Women Act (VAWA) are eligible to apply for CalWORKs as soon as they have established a prima facie case with the U.S. Citizenship and Immigration Services.<sup>66</sup> (These individuals must be married to a U.S. citizen or Legal Permanent Resident who has abused them or have a child who has been abused by a parent who is a U.S. citizen or Legal Permanent Resident.)
- Abuse victims with an approved family-based petition are also eligible.<sup>67</sup> Note that in these cases, since the immigration petition is not based on abuse, the county must make the determination whether the applicant has been abused.<sup>68</sup>
- As of January 1, 2007, a new state funded program made CalWORKs available to victims of human trafficking, who are preparing to file, or have filed, an application for a “T” visa or are otherwise taking steps to meet the eligibility conditions for federal benefits.<sup>69</sup>

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65. Civil Code §§ 1798.79.8-1798.79.9; ACIN 1-2-06; ACIN 1-52-08. This law was passed in 2007 and is enforceable in court and contains provisions for damages and attorneys fees.

66. 8 U.S.C. §1641(c), ACL 00-07, p.2. USCIS documents that indicate a prima facie determination are forms I-797 or I-797C, or an immigration court or Board of Immigration Appeals order indicating that the applicant has established a prima facie case for cancellation of removal/suspension of deportation. If the petition has already been approved, the appropriate documentation would be USCIS I-797 or I-797C indicating that an I-360 or I-130 petition has been approved, or a final order or notice from an Immigration Judge, the Board of Immigration Appeals or a federal court granting suspension of deportation or cancellation of removal.

67. 8 U.S.C. §1641(c), ACL 00-07, p. 2, 3. The family petition must be based on one of the following relationships: spouse or unmarried child under 21 of U.S. citizen or legal permanent resident (LPR) or unmarried son or daughter 21 or older of LPR. ACL 00-07, p. 3.

68. ACL 00-07, p. 5. The county must use the same guidelines for determining abuse as in the waiver context, which means that the applicant’s sworn statement of abuse will generally suffice. ACL 00-07, p. 5. See discussion of Evidence of Abuse in Section II.A.5. above.

69. Welfare and Institutions Code § 13283. “T” visas are available to victims of human trafficking. 8 U.S.C. § 1101(a)(15)(T)(I). Human trafficking is defined in 22 U.S.C. § 7102(8) or (9) and California Penal Code § 236.1. See ACL 06-60 and ACL 08-15 for a detailed discussion of how to show eligibility for these applicants.

The individual does not have to have filed the application yet to be eligible for benefits.<sup>70</sup> But if they do not file the “T” visa application within one year of applying for benefits, they are no longer eligible for benefits.<sup>71</sup>

- As of January 1, 2007, CalWORKs was made available to victims of domestic violence or other serious crimes who have filed an application for or a “U” visa.<sup>72</sup>
- Other than the specific provisions for battered immigrants discussed in this section, other immigration eligibility requirements cannot be waived due to domestic violence.<sup>73</sup> However for U and T Visa applicants, there is an exception to the requirement that they have a social security number.<sup>74</sup>

Note that U and T Visa applicants may not yet have work authorization in the United States and thus cannot be required to participate in welfare-to-work activities that require work authorization.<sup>75</sup>

## 2. Sponsor Deeming

Ordinarily, when an immigrant has a financial sponsor when they enter the U.S., the income and resources of the sponsor is deemed available to the immigrant when they apply for CalWORKs.<sup>76</sup> Abused immigrants whose sponsor executed an I-864 affidavit of support (on or after December 19, 1997) are exempt from deeming requirements for up to one year, and the exemption may be extended if the abuse has been recognized in an order of a judge or an administrative law judge or the INS has made a determination that the abuse occurred.<sup>77</sup> Note that persons who have petitioned for legal residency under the Violence Against Women Act do not need a sponsor and are thus exempt from deeming requirements.

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70. WIC § 18945(b)(1).

71. WIC § 18945(c).

72. Welfare and Institutions Code §§ 13283. “U” visas are available to victims of violent crime, including domestic violence, who are cooperating with law enforcement in the investigation of the crime. 8 U.S.C. § 1101(a)(15)(U). See ACL 06-60, ACIN 1-41-07, and ACL 08-15 for a detailed discussion of how to show eligibility for these applicants. Note that to show eligibility, the applicant need only show that they have applied for a “U” visa – not that it has been approved.

73. ACIN 1-02-06, Attach. p. 3.

74. ACL 07-45.

75. ACIN 1-41-07, p. 3.

76. WIC §§ 11008.13, 11008.135; MPP § 43-119.22.

77. ACL 00-07, p. 6. Immigrants who used the old I-134 affidavit of support, prior to December 19, 1997, have no special exemption available to them, but the income of their sponsors may only be deemed to them for three years. WIC § 11008.13.

### 3. Public Charge

Battered immigrants who apply for CalWORKs may have legitimate concerns about whether the receipt of public benefits will make it more difficult for their residency petition to be approved. A law enacted in October of 2000 clarifies that Violence Against Women Act applicants who receive public benefits based on their VAWA status will not have those benefits considered by the USCIS or the Department of State for public charge purposes.<sup>78</sup> T Visa applicants are exempt from public charge.<sup>79</sup>

For other abuse victims (such as undocumented parents who apply for benefits for their U.S. citizen children), the guidance and proposed regulations on public charge issued by the INS on May 25, 1999 are silent as to whether immigrants who utilize public benefits in the process of escaping domestic violence will be deemed public charges and thus inadmissible or deportable. Because the regulations do not list abused immigrants among the exempt immigrants, abused immigrants are still subject to public charge consideration. Similarly, there are no regulations with respect to U Visa applicants and public charge. In the past, however, most domestic violence survivors have been able to overcome the public charge issue.<sup>80</sup> Immigrants can ask to waive the public charge test, and the government is supposed to consider whether they are likely to receive public benefits in the future, not just whether they have received benefits in the past.<sup>81</sup>

Actual U Visas (as opposed to interim U Visa Relief) have only been available since October 2007, and to date, only a few of those applications have been approved, so it is a bit unknown exactly how U visa petitioners who have received public benefits for themselves or their family members will be treated by USCIS. Fortunately, the interim regulations for Adjustment of Status for U visa holders make clear that there will not be a new review of admissibility for U visa holders who have received public benefits at the time they apply to become a permanent resident. So for persons who already have their U Visa, receipt of public benefits should not be an issue when they apply for permanent resident status.

In addition to general arguments about why current receipt of public benefits should not be held against an immigrant, abuse survivors can make additional arguments. Often abusers have prevented their partners from working as part of a pattern of coercive behavior. Arguably, once survivors are able to live free of their partners, they will be able to obtain jobs or pursue training to help them get jobs.

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78. 8 U.S.C. § 1182(p).

79. 8 U.S.C. § 1182(d)(13)(A).

80. See California Immigrant Policy Center, "Benefits for Immigrant Victims of Trafficking, Domestic Violence, & Other Serious Crimes in California," pp. 11-12 at [http://www.nilc.org/ce/nonnilc/TraffickingReportFinal\\_2008-04.pdf](http://www.nilc.org/ce/nonnilc/TraffickingReportFinal_2008-04.pdf).

81. For more information on public charge, see the National Immigration Law Center's publication: "INS Guidance on Public Charge: When Is It Safe to Use Public Benefits?" at p. 11, available at [http://www.nilc.org/ciwc/ciwc\\_ce/pubchgce\\_9-22-04.PDF](http://www.nilc.org/ciwc/ciwc_ce/pubchgce_9-22-04.PDF).

Any non-citizen who wishes to travel outside the U.S. should contact an immigration attorney prior to traveling, as they may have difficulty reentering the U.S. (due to having received public benefits or to other inadmissibility issues that are subject to review any time someone attempts to be re-admitted to the U.S. at the border).

## E. Other Provisions

There are a few other provisions in CalWORKs that may prove useful to abuse survivors.

### 1. Diversion

Diversion may provide a unique source of funds for CalWORKs eligible survivors of abuse.<sup>82</sup> Diversion is a lump sum payment that is available to CalWORKs eligible applicants if the payment would avoid their need for a monthly grant. For example, if a battered woman wants to relocate in order to escape the abuser, and she has the possibility of a job in the new location, she might be able to receive financial assistance with relocation through the diversion program, instead of going on CalWORKs.

### 2. Homeless Assistance

There is also a special provision for abuse survivors in the Homeless Assistance program (HAP).<sup>83</sup> Homeless Assistance provides additional monies to families who are homeless to pay for temporary shelter, move-in costs for permanent housing, or two months of rent arrears to prevent eviction. With limited exceptions, a family can apply for Homeless Assistance only once in a lifetime.<sup>84</sup> A family that is homeless as a direct result of domestic violence, however, can apply for assistance once every twelve months.<sup>85</sup> The family does not need third party proof of the domestic violence until they have used homeless assistance two times; then it may be required.<sup>86</sup> In addition, when the family gets HAP based on domestic violence twice in a 24-month period, then the County should offer referrals to domestic abuse counseling programs (but the family need not accept the referral).<sup>87</sup> Furthermore, if the recipient applies for homeless assistance two times in a 24 month period due to domestic violence, the county can require the

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82. WIC § 11266.5.

83. WIC § 11450(f)(2).

84. WIC § 11450(f)(2)(E)(i)

85. WIC § 11450(f)(2)(E)(iii).

86. WIC § 11450(f)(2)(E)(iii).

87. *Id.*

recipient to participate in a homeless avoidance case plan as a condition of receiving the homeless assistance.

### **3. Disregarding Resources of Survivors in Shelter**

The resources of domestic violence survivors and their children who are temporarily in a shelter for abuse victims are considered inaccessible for CalWORKs purposes if, at the time they apply for assistance: (1) the resources are jointly owned by the survivor and member(s) of the household from which s/he fled, and (2) the survivor's access to these resources requires consent of one of the members of the former household.<sup>88</sup> For example, an abuse survivor who flees to a shelter with her children should not have a home, car or money in a bank account counted for purposes of CalWORKs eligibility if the item is in the abuser's name or possession or access requires the abuser's consent.

## **III. What Are the Welfare Department's Obligations?**

### **A. Written Domestic Violence Policies**

All counties must have written domestic abuse policies for the CalWORKs program.<sup>89</sup> Counties must develop written criteria for waiving program requirements.<sup>90</sup> Counties can establish the duration of waivers, as long as they comply with state and federal regulations, and must ensure that past and present domestic violence survivors are not placed at further risk or unfairly penalized by CalWORKs program requirements and procedures.<sup>91</sup> CalWORKs program requirements may not be created or applied in a way so as to encourage a domestic violence victim to stay with the abuser.<sup>92</sup>

A county may not have a policy that no participant gets a domestic violence waiver for any reason.<sup>93</sup>

### **B. Identification, Informing & Confidentiality Requirements**

Under the Family Violence Option, county welfare departments must identify applicants and recipients of assistance who have been or are victims of abuse, while protecting

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88. MPP § 63-501.3(m).

89. MPP § 42-715.52, 11-501.3; ACL 00-08; ACIN 1-02-06, Attach. p. 1, Q.2.

90. ACIN 1-02-06, p. 3.

91. ACIN 1-02-06, p. 3.

92. ACIN 1-02-06, p. 4.

93. ACIN 1-02-06, Attach. p. 1., Q. 3.

confidentiality. Identification shall be accomplished by informing all applicants and recipients of the availability of services for abuse victims and providing opportunities to confidentially self-identify.<sup>94</sup> Further, individuals are to be advised that answering any questions about abuse is optional and answers indicating abuse will not result in any negative effects.<sup>95</sup>

Counties are required to provide information on domestic abuse in a safe and private space: during the application process, when an individual enters a welfare-to-work program, and at annual redetermination.<sup>96</sup> Counties must meet with the applicant/recipient alone, to ensure that the batterer is not present during the interview.<sup>97</sup> Applicants must be informed of available services verbally and in writing.<sup>98</sup> The welfare department must include information about: a) county domestic abuse resources; b) confidentiality and limits thereon; c) family violence option waivers available for abuse victims; d) the good cause exemption to the child support cooperation requirement; e) general abuse information, such as safety planning; f) county assistance in tailoring welfare-to-work plans to meet the needs of victims; and g) remedies available for immigrant domestic violence survivors (i.e., immigration relief for battered immigrants, benefits eligibility for abuse survivors, and exceptions to sponsor deeming).<sup>99</sup>

Except where disclosure is required by law or where there is a written release, information with respect to victims and their dependents shall not be released to any outside party, governmental agency, or to an employee of the county welfare department who is not directly involved in the case.<sup>100</sup> Additionally, the county is to preserve the confidentiality of the service provider-recipient relationship when it reviews an individual's participation in domestic violence services that are part of her/his plan.<sup>101</sup> Counties need to be aware that state law specifically limits the personally identifying information that counties may request from service providers who the county funds to serve victims of domestic abuse, dating violence, sexual assault, or stalking, or the children of such victims.<sup>102</sup>

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94. MPP § 42-715.11, 42-715.12; ACIN 1-02-06, p. 2.

95. MPP § 42-715.14. However, see Advocacy Tip on Child Abuse Reporting below for possible negative ramifications for disclosing domestic violence.

96. MPP § 42-715.13. Other methods of informing recipients suggested by the regulations are the displaying of domestic violence posters and other materials in the welfare office. MPP § 42-715.131(a).

97. ACIN 1-02-06, Attach. p. 1, Q.1.

98. MPP § 42-715.11.

99. MPP § 42-715.133. See Appendix B for an example of an informing notice developed in San Francisco for written and verbal notice.

100. MPP § 42-715.31. Exceptions are where the information is required to be disclosed by law or where the victim provides written authorization. MPP § 42-715.311.

101. MPP § 42-715.32.

102. Civil Code §§ 1798.79.8-1798.79.9; ACIN 1-52-08. The law defines personal identifying information to include: name, address or parts thereof, email address, telephone number, social security number, date of birth, internet protocol addresses or host name that identifies the individual, and any other information – such as names of

**Advocacy Tip on Child Abuse Reporting:**

Many abuse survivors may be afraid to disclose domestic violence to their welfare workers for fear that this may trigger a report to Child Protective Services, which might result in their child(ren) being removed from their home. County child welfare departments differ on how they treat disclosures of domestic violence. For example, in some counties, a mention of domestic violence in the household automatically triggers a report to Child Protective Services. In other counties, Child Protective Services will be contacted only if there is evidence of abuse directly to the children. It is important to be familiar with the practice in your county, to advocate for strong confidentiality protocols governing communications between the CalWORKs program and the Child Protective Services agency, and to promote a policy that encourages, rather than dissuades, survivors from seeking assistance.

### **C. Safety Priority & Safe Communication**

County welfare department staff are required to discuss safety with individuals identified as abuse victims and are to consider safety at all times. Survivors are to be provided the opportunity to make decisions about how they will receive communications from the county so as to address safety needs (e.g., alternative mailing address, hand delivery, or P.O. Box).<sup>103</sup> Counties are encouraged to inform recipients who need safe mailing addresses about the “Safe at Home California Confidential Address Program.”<sup>104</sup> Some abuse survivors may not need to appear at the welfare department in person and may have phone meetings with workers instead.

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kids or relatives, racial or ethnic background, or religious affiliation - that in combination with any other non-personally identifying information would serve to identify any individual. Civil Code § 1798.79.8(a).

103. MPP § 42-715.4; ACIN 1-02-06, p. 3 and Attach. p.1, Q.1..

104. ACIN 1-02-06, Attach. p. 1, Q.1. Information on the Safe at Home program can be found at [ss.ca.gov/safeathome](http://ss.ca.gov/safeathome).

## **D. Referrals to Services**

The county must refer identified abuse survivors to supportive services. The county is required to maintain a comprehensive and current list of local domestic abuse resources.<sup>105</sup> These referral lists must be provided to all applicants, whether or not they self-identify as abuse survivors.<sup>106</sup> Some counties, such as Los Angeles, contract for such services using their welfare-to-work money.

## **E. Child Support Good Cause Claim for Non-Cooperation**

Prior to referral of an individual to the local child support agency, the county welfare department shall determine if that person has good cause for non-cooperation.<sup>107</sup> County welfare departments must inform all applicants/recipients verbally and in writing of their right to request an exemption from the cooperation requirement should they fear that compliance would endanger themselves or their children, or should any of the other grounds for an exemption apply.<sup>108</sup> No corroborating evidence is required of an abuse survivor to support a good cause claim: the individual's sworn statement of the abuse shall be sufficient to establish abuse unless the agency documents in writing an independent, reasonable basis to find the recipient not credible.<sup>109</sup> If the welfare department finds good cause, it shall not refer the case to the local child support agency.<sup>110</sup>

## **F. Individual Case Assessment & Tailoring Welfare-to-Work Plans**

The CalWORKs program requires that each applicant who does not get a job through an initial job search have an assessment done for their work placement that takes into account their individual needs and skills.<sup>111</sup> Those identified as abuse victims are to be referred to staff that are trained in domestic abuse for assessment.<sup>112</sup> Trained staff is to help these individuals develop welfare-to-work plans that do not place them at further risk and to which the individual can

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105. MPP § 42-715.132.

106. MPP § 42-715.13. State regulations also suggest that counties make telephones available to individuals who have self-disclosed so they can safely and privately call domestic violence resources. MPP § 42-715.131(c).

107. WIC §11477.02.

108. MPP § 42-715.133.

109. WIC 11477.04(d).

110. WIC § 11477.02.

111. WIC §§ 11320.1(b), 11325.22(b)(2)(A), 11325.4; MPP §§ 42-711.551; 42-711.553.

112. MPP § 42-715.21.

agree. The plans are to be designed with confidentiality and the health and safety of the individuals and their children as the primary considerations.<sup>113</sup>

## **G. County Training Requirements**

Counties are required to train all staff responsible for working with CalWORKs recipients on domestic abuse.<sup>114</sup> Trainings are to be culturally competent and include at a minimum:

- the dynamics of domestic abuse;
- how abuse can interfere with CalWORKs program requirements;
- county confidentiality provisions;
- informing requirements;
- creating a safe place for disclosure;
- how to interview abuse victims;
- indications of domestic violence;
- prevalence of substance abuse and mental health issues among domestic violence survivors;
- tailoring welfare-to-work plans to meet survivors' needs;
- county policies on domestic violence;
- community resources;
- domestic violence provisions for non-citizens;
- legal options for survivors; and
- recognitions of the worker's own biases.<sup>115</sup>

Counties are encouraged to collaborate in these trainings with domestic abuse advocates and experts, including those from the local community. Counties have flexibility in the frequency and duration of the trainings, but should continue to provide domestic abuse training for new staff and retrain staff as appropriate.<sup>116</sup> The California Department of Social Services has a two day training curriculum on domestic violence available for counties to use in training CalWORKs staff.

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113. MPP § 42-715.2. Welfare-to-work plans for abuse victims must include consideration of various factors, including: "(1) the degree to which domestic abuse is a barrier to obtaining employment, (2) flexibility to accommodate legal obligations, (3) cultural or religious needs, (4) protection for individuals in immediate danger, (5) the need for a waiver from program requirements, and (6) other services the victim and her or his children need." ACIN 1-02-06, pp. 2-3.

114. MPP § 42-715.6.

115. MPP § 42-715.6. See also ACIN 1-02-06, p. 4-5.

116. ACIN 1-02-06, p. 5.

**Appendix A**  
**Sworn Statement of Abuse and Request for CalWORKs Waiver**

Instead of, or in addition to, this form, you may use other evidence of abuse, such as: court records, police reports, medical reports, letters from a shelter or other domestic violence agency, letters from a religious counselor or other person you have consulted about the abuse, sworn statements from other people who have witnessed the abuse.

**1. The abuse I suffered was (check at least one).**

- Physical abuse or threats of physical abuse**
- Sexual abuse or threats of sexual abuse/being forced or threatened to have sex without my consent**
- Sexual abuse of a child in my home**
- Mental abuse**
- Neglect or deprivation of medical care**
- Stalking**

**2. I would like a waiver of the following CalWORKs requirement:**

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**3. I am a victim of abuse because: (describe how the abuser hurt you, did something that scared you, abused you; include the most violent or scariest incident; describe you and your children's relationship to the abuser, for example, boyfriend, girlfriend, neighbor, stranger, etc.).**

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**4. I or my child would be placed at further risk of abuse, or be penalized for past abuse, by CalWORKs requirements and procedures in the following way (s).**

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**I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.**

**Date:** \_\_\_\_\_ **Signature:** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_

# APPENDIX B

SAN FRANCISCO

DEPARTMENT OF HUMAN SERVICES



## CALWORKS DOMESTIC VIOLENCE INFORMING NOTICE

- Because violence is common in women's/people's lives, I want to tell everyone about the following options that are available to survivors of abuse: if you are being harmed by an intimate partner or other person, I can talk to you about community resources that can help you - **here's a resource list I give everyone**. If abuse is happening in your life, we can work together to develop your welfare-to-work plan in a way that keeps you most safe. You may also receive waivers of any of our requirements that may make you or your children less safe or that you may have problems meeting because of the abuse.
1. The county is **required by law** to contact your children's father (mother) to try to get child support from him (her). If doing this would put you or your children at risk of harm, you may be able to get excused from this requirement.
  2. If you do want to talk to me about abuse in your life, know that everything you tell me will be confidential and I will not tell anyone, unless I suspect child or elder abuse, which I am required to report, or unless a report of such abuse has been filed.
  3. If you are an immigrant and you or your children are being abused, and your spouse or the children's other parent is a U.S. citizen or permanent resident, you may be able to apply for residency and then receive welfare. If you have a sponsor, you may be required to provide information about your sponsor's income and resources - However, immigrant victims of abuse may also be eligible for an exception to this requirement. **Here is the number for an immigration advocate** you can call to get more information.
  4. If you don't feel you are able to talk about this now, or would feel more comfortable talking to someone else about this, you can always tell me later or speak with one of our domestic violence resource specialists, if abuse is interfering with your ability to meet our program requirements. You may feel uncomfortable talking to us about the abuse. You can discuss these issues with a community advocate and ask them to contact us about your needs.

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I have given the above notice orally and in writing to: \_\_\_\_\_

\_\_\_\_\_  
Signature of CalWORKs employee

\_\_\_\_\_  
Wrkr #

\_\_\_\_\_  
Date

**The information on this form was reviewed with me and I received a copy.**

\_\_\_\_\_  
Signature of applicant/recipient

\_\_\_\_\_  
Date

**Copy to applicant/recipient; place original in file.**

# CalWORKs AND EMPLOYMENT PROGRAMS NEWSLETTER

DATE: November 27, 2002

No. 02-09

## DOMESTIC VIOLENCE EXEMPTION POLICY FOR TIMING-OUT RECIPIENTS

### Introduction

In January 2003, the first cohort of adult Alameda County CalWORKs recipients will reach their 60-month lifetime limit for cash assistance. According to federal and State regulations, domestic violence (DV) is one of the potential 60-month "clock stoppers." Section 42-302.12 of the State Department of Social Services Manual of Policies and Procedures states: "When an individual has been aided as an adult for 60 months, aid may continue for that adult when the individual is a victim of domestic violence and the county has determined that good cause exists for waiving the 60-month time limit."

The Alameda County Social Services Agency (SSA) recognizes that while over two-thirds of CalWORKs recipients are estimated to be victims/survivors of domestic violence,<sup>1</sup> only a small percentage choose to disclose their DV situation. SSA also recognizes that economic reasons commonly influence a DV victim's decision to remain in or return to an abusive relationship. For these reasons and more, it is imperative that staff properly and fairly address requests/recommendations for a CalWORKs recipient to receive a waiver of the 60-month time limit due to past or current domestic violence. SSA has developed the following policy specific to DV exemptions for timing-out CalWORKs recipients, hereafter referred to as "clients." The purpose of this policy is to try to ensure, to the best of SSA's abilities, that specifically those clients who are victims/survivors of domestic violence and are justified in receiving a waiver/exemption of the 60-month time limit are granted the exemption for the amount of time that is appropriate to their DV situation.

Note: Throughout this document, the terms 'waiver' and 'exemption' are often used interchangeably, particularly when referring to the State and federal regulations. SSA's original DV Policies and Protocols make a distinction between waivers and exemptions, but these are treated the same for the purposes of this policy for timing-out clients.

### Background

In 1998, shortly after CalWORKs was implemented in Alameda County, SSA convened a CalWORKs DV workgroup that consisted of SSA staff, DV advocates, and other community DV service providers. This work group developed the Alameda County CalWORKs DV Policies and Protocols. The Policies and Protocols are based on the Family Violence Option (which was

<sup>1</sup> California Institute of Mental Health (September 2000): *The CalWORKs Project: The Prevalence of Mental Health, Alcohol and Other Drug, & Domestic Violence Issues Among CalWORKs Participants in Kern and Stanislaus Counties*. Sacramento, CA: CIMH.

adopted by California through AB 1542, the State welfare reform law) and State CalWORKs regulations, and were approved by SSA's Executive Committee in early 1999. The DV workgroup is now known as the DV Advisory Committee and has played an active role in developing this DV exemption policy for timing-out clients.

SSA's DV exemption policy for timing-out clients is essentially an extension of the general CalWORKs DV Policies and Protocols that guide SSA. As indicated by the Policies and Protocols, SSA's Domestic Violence Specialists are the DV experts in our agency, and as such, are the staff who are best equipped to determine whether a client is justified in receiving a waiver of one or more CalWORKs program requirements, in accordance with the Family Violence Option:

“Waive, on a case-by-case basis, for so long as necessary, pursuant to a determination of good cause under paragraph (2) of subdivision (f) of Section 11320.3, any program requirements that would make it more difficult for these individuals or their children to escape abuse, and that would be detrimental or unfairly penalize past or present victims of abuse. Requirements that may be waived include, but are not limited to, time limits on receipt of assistance, work requirements, educational requirements, paternity establishment, and child support cooperation requirements.” (W&I Code §11495.1)

The federal regulations allow DV waivers to be granted to “extend time limits based on the need for continued assistance due to current or past domestic violence or the risk of further domestic violence” [45 CFR Section 260.59 (a)2(i)]. Not only can DV victims who reach their five-year limit continue to receive assistance when needed due to past or present abuse, they may also return for assistance if the need arises (64 Federal Register 17746).

As stated in the regulations, clients who experienced DV in the past but have not disclosed their abuse until the present time may be eligible for a waiver of their 60-month time limit. SSA's DV Policies and Protocols state the following:

“Recipients can apply for good cause, waivers, or exemptions at any time. At no time will the recipient's decision not to disclose eligibility for waivers due to abuse preclude disclosure at a future date, nor will it preclude future services or waivers.” (Section VII)

### **Procedure For Notifying Timing-Out Clients Of DV Exemptions**

Clients who are approaching their 60-month time limit will be informed of potential “clock stoppers,” including DV, through the following methods:

- Mailing of time limits flyer(s)
- Verbal notification during face-to-face meeting between the client and her/his Employment Counselor (EC)

For limited-English-speaking/monolingual clients, this information will be provided in the language spoken by the client.

DV exemption information provided to timing-out clients will include information on a DV victim's right to return for assistance if needed after she has reached her five-year limit.

### **Protocol For Handling DV Exemption Requests For Timing-Out Clients**

Clients who request a DV exemption or appear to be potentially eligible for a DV exemption will be referred to the on-site DV Specialist, who, according to the following protocol, will assess the client's case and determine whether the client should be granted the exemption. Federal and State laws and regulations and local policies provide the basis for this protocol.

- 1) For all clients who have previously received a DV exemption or waiver from welfare-to-work requirements: at a minimum, the length of time for which the exemption or waiver was granted will not count towards the client's 60-month time limit. If the DV Specialist determines that the client should have received an exemption or waiver for a longer period of time than what was actually granted, the additional time will be subtracted from the client's 60-month clock.
- 2) For clients who are currently in an abusive situation and are approaching or have reached their 60-month time limit: the DV Specialist will offer/provide her usual range of services to the client (e.g., crisis intervention and counseling, safety planning, case management, referrals to DV services and/or other community resources), as well as an assessment of whether the client's DV situation warrants a waiver of the 60-month time limit because it would unfairly penalize the client or increase her risk of abuse. In conjunction with the client, the DV Specialist will develop a plan that includes appropriate services, such as counseling, support groups, restraining order or other legal assistance, etc. However, participation in services is not mandated for clients who receive a waiver/exemption of the 60-month time limit.

The exemption will be granted for a period not to exceed six months at a time and should be reviewed after three months. At the end of the exemption period, the DV Specialist will reassess the client's case to determine whether an exemption is still warranted. The client's compliance to her/his plan will factor into the DV Specialist's decision on whether the client's waiver of the 60-month time limit should be extended.

- 3) For clients who have experienced DV in the past but never received a DV exemption or waiver: the DV Specialist will offer/provide appropriate services (e.g., crisis intervention and counseling, safety planning, case management, referrals to DV services and/or other community resources) and obtain a thorough case history from the client to determine whether the client should have been granted a waiver/exemption for a certain period of time, and therefore should have their 60-month clock stopped for that length of time. As is customary practice for the DV Specialist, she will review any available supporting documentation that relates to the client's history of abuse, such as restraining orders, police records, and/or letters from service providers or other individuals familiar with her DV situation. However, such documentation is not required in order for the DV Specialist to determine that the client should be granted an exemption retroactively. It is important to note that while the majority of clients are likely to have supporting

documentation, there will be some DV victims who have never disclosed their abuse or sought outside help due to fear of the batterer.

The basis of SSA's policy to not require supporting documentation from clients is Section VII of SSA's DV Policies and Protocols, which is taken from Section 11495.25 of the California Welfare and Institutions (W&I) Code:

"Sworn statements by a victim of past or present abuse shall be sufficient to establish abuse unless the agency documents in writing an independent, reasonable basis to find the recipient not credible. Evidence may also include, but is not limited to: police, government agency, or court records or files; documentation from a domestic violence program, legal, clerical, medical or other professional from whom the applicant or recipient has sought assistance in dealing with the abuse; or other evidence, such as a statement from any other individual with knowledge of the circumstances that provide the basis for the claim, or physical evidence of abuse, or any other evidence that supports the statement." (W&I §11495.25)

The DV Specialist will thoroughly assess each client's case to determine the client's needs and safety issues, as well as to determine whether a waiver of the 60-month time limit is warranted due to a connection between the client's past or present abuse or risk of future abuse and the client's need for continued assistance. If the DV Specialist determines that a waiver of the 60-month time limit is warranted, she will inform the client's EC of this and the length of time for which the exemption is being granted.

As is the case with DV exemption requests for timing-out clients, the DV Specialist will handle waiver requests for a client who has already reached her 60-month limit and come off aid but needs to return for assistance due to abuse or effects of abuse that occur after she timed out. The steps to be followed by the DV Specialist are the same as those listed in #2 of the protocol.

**Filing Instructions**

Retain Until Further Notice

References: California State DSS Manual of Policies and Procedures  
California Welfare and Institutions Code  
DHHS Federal Register: TANF Rules and Regulations  
Alameda County CalWORKs Domestic Violence Policies and Protocols

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