



## Questions and Answers about CalWORKs Child Care: Diversion

### 1. What is CalWORKs?

CalWORKs cash aid (welfare), is a California program that gives money each month to qualified low-income families.<sup>1</sup> CalWORKs replaced AFDC in 1998.<sup>2</sup> Adults can get CalWORKs cash aid for only 60 months in their lifetimes,<sup>3</sup> although their children are still eligible after 60 months.<sup>4</sup> Work requirements apply.

### 2. What is CalWORKs Diversion?

CalWORKs Diversion is a one-time payment that is supposed to help people get or keep a job so that they do not need to get CalWORKs cash aid each month.<sup>5</sup> Diversion is designed to help people who need some help but do not need or want to get CalWORKs cash aid. In most counties, a Diversion payment can be up to about \$3,000. See questions 7 and 9.

**Note:** State law does not limit the number of times that you can get Diversion, so your county decides.

**Tip:** This flier covers Diversion and child care; see the resource box below for more information.

### 3. Who Can Get CalWORKs Diversion?

You can get CalWORKs Diversion if all of the following are true:

- You are applying for CalWORKs cash aid,
- You *qualify* for CalWORKs cash aid but you are not currently *getting* it,
- The county decides that Diversion will probably help you stay off CalWORKs cash aid, and
- You agree to get Diversion instead of getting CalWORKs cash aid.<sup>6</sup>

### 4. Can I Get CalWORKs Diversion if I Am Currently Getting CalWORKs Cash Aid?

No. CalWORKs Diversion is supposed to “divert” people and help them support themselves so that they do not need CalWORKs cash aid.<sup>7</sup>

**Tip:** You can still get CalWORKs Diversion if you have gotten CalWORKs cash aid in the past but you are not getting it currently.<sup>8</sup>

### 5. Where Can I Apply for Diversion?

You can apply at your county welfare department. The application will ask you why you need Diversion, the amount of money you need, and how Diversion will help you get or keep a job.<sup>9</sup> You will also be asked about your earnings, resources, and children. (See question 6.)

### 6. How Does the County Welfare Department Decide Whether or Not I Will Get CalWORKs Diversion?

The county welfare department will see whether giving you diversion funds will make it likely that you can avoid welfare. The county may consider

- Whether the Diversion payment will help you get or keep a job,
- How stable your life is (by looking at your work and housing history),
- Your need for a lump-sum of money to meet an expense, such as a housing deposit, fixing your car, etc., and
- Whether you have adequate child care arrangements, if needed.<sup>10</sup>

**Tip:** Check your county’s Diversion policy. See question 9. Some counties do not have a clear Diversion policy even though they are supposed to.<sup>11</sup> Call Legal Aid for help.

### 7. What Kinds of Expenses Can CalWORKs Diversion Cover?

CalWORKs Diversion can help you with most expenses that might keep you from getting or keeping a job, such as

- Child care,
- Car repair,
- Car insurance,
- Work tools,
- Safety clothing,
- Special license fees,
- Rent and/or utilities,
- Housing relocation, and
- Other reasonable expenses.<sup>12</sup>

### 8. Can CalWORKs Diversion Pay Overdue Child Care Costs and Enrollment Fees?

Yes. If getting help with overdue child care payments or enrollment fees will help you get or keep a job, then CalWORKs Diversion may be able to help.<sup>13</sup> See questions 3 and 6 for other requirements.

**Example:** You lose your job, and you are thinking of going on CalWORKs cash aid. But then you are offered a great job, and they want you to start in two weeks. You find a good child care center, but it has expensive enrollment fees that you cannot afford to pay. CalWORKs Diversion pays for the enrollment fees, and you are able to start your job on time and avoid getting CalWORKs cash aid. See question 16 regarding continued child care payments.

### 9. Do all Counties Have the Same CalWORKs Diversion Policy?

No. Each county can set its own policy.<sup>14</sup>

**Example:** Los Angeles County will pay CalWORKs Diversion for child care enrollment fees and car repairs.

**Tip:** Check your county's policy by looking at your county's CalWORKs plan on the Department of Social Services website, [www.dss.cahwnet.gov](http://www.dss.cahwnet.gov).

### 10. What if I Get CalWORKs Diversion and Then I Need CalWORKs Cash Aid?

You can get CalWORKs cash aid even after you have gotten CalWORKs Diversion. If you get CalWORKs cash aid soon after you have gotten Diversion, either you will have to pay back the Diversion money or your 60 month lifetime limit for getting CalWORKs cash aid will be reduced.<sup>15</sup>

### 11. What is CalWORKs Child Care?

CalWORKs child care pays monthly child care costs if you

- Are getting CalWORKs cash aid currently,
- Have gotten CalWORKs cash aid in the past, *or*
- Got a lump-sum Diversion payment to stay off CalWORKs cash aid.<sup>16</sup>

In addition, you must either be working or be participating in welfare-to-work or job training activities,<sup>17</sup> such as going to school or doing community service, and you must have a low income.<sup>18</sup>

**Example:** Your car is broken and you need to get it fixed to get to and from work. You get a Diversion payment to pay for car repairs. Because you got CalWORKs Diversion, you are eligible to get CalWORKs child care.

**Example:** In the example in question 8 above, in addition to qualifying to get your enrollment fees paid, you also qualify to get CalWORKs child care.

### 12. What Are CalWORKs Child Care Stages?

CalWORKs child care is divided into three Stages.<sup>19</sup> Different rules apply to the three Stages. These Stages are supposed to be "seamless"<sup>20</sup> so that you have no trouble moving from one Stage to the next. The California Department of Social Services is responsible for Stage 1,<sup>21</sup> and the California Department of Education is responsible for Stages 2 and 3.<sup>22</sup> County welfare departments generally run Stage 1,<sup>23</sup> and Alternative Payment Programs generally run Stages 2 and 3.<sup>24</sup>

**Tip:** Look at your Notices of Action to find out what Stage you are in. See question 18.

### 13. What are Alternative Payment Programs?

Alternative Payment Programs (APP) are agencies that contract with the California Department of Education to help people pay for child care.<sup>25</sup> When you get CalWORKs cash aid, and when you are transitioning off CalWORKs cash aid, APPs must work closely with the county welfare department to make sure that you get child care if you need it.

**Tip:** Call your Resource and Referral agency to find out which APP handles CalWORKs child care in your county.

### 14. What Help is Available to Find Child Care

Call your child care Resource and Referral agency. See the resource box below.

### 15. What Kind of Child Care Can I Use?

You can use any legal kind of child care, including a licensed family child care home, a licensed center, some recreational programs, or license-exempt care. Most child care providers are paid directly.<sup>26</sup> However, if you choose a license-exempt child care provider, you may be paid directly and be expected to pay your child care provider yourself.<sup>27</sup> Child care providers who care for the children of one family other than their own are license-exempt.<sup>28</sup>

### 16. How Can I Get CalWORKs Child Care after Getting CalWORKs Diversion?

You should tell the county welfare department that you need help with future child care payments. The worker will give you forms that you and your child care provider will have to fill out. You usually have to give

information about yourself, your children, your child care provider, and your work hours.<sup>29</sup> (See question 15.)

### **17. What Can I Do if the County Welfare Department Denies My Diversion Application or My Child Care Application?**

If your county welfare department denies your application, it must give you a Notice of Action (see question 18) telling you the reason.<sup>30</sup> Then you can appeal and ask for a hearing. See question 19.<sup>31</sup>

### **18. What is a Notice of Action?**

A Notice of Action is a piece of paper that tells you about a decision that the county welfare department or APP has made. You have a right to get a Notice of Action after you apply for CalWORKs cash aid, Diversion, or child care.<sup>32</sup> You also have a right to get a Notice of Action if your benefits are changed.<sup>33</sup>

**Example:** If you apply for CalWORKs Diversion or child care, you will get a Notice of Action saying that you have been approved or denied.<sup>34</sup>

### **19. What Can I Do if the County Welfare Department or the APP Makes a Decision That I Think is Wrong?**

Look at the back of your Notice of Action to find out how to appeal the decision. You may ask for a hearing by telephone, but it is better to ask in writing and to keep a copy. Even if you do not get a Notice of Action, you can still appeal.<sup>35</sup> You will get a hearing in which you will have a chance to explain why you think the decision was wrong.<sup>36</sup> If you are already getting CalWORKs cash aid or child care, and you meet the deadline, your benefits will not change until you get a decision after the hearing.<sup>37</sup>

**Note:** If you want a hearing, and you want your benefits to continue while you wait for a hearing decision, you should make sure that you meet the deadline in your Notice of Action. The deadline, as well as the type of hearing that you have, depends on which Stage of CalWORKs child care you are in.<sup>38</sup> In Stage 1, you must appeal within 90 days,<sup>39</sup> and you must appeal before the change takes place in order to have your benefits continue until you get your hearing decision.<sup>40</sup> In Stages 2 and 3, you must appeal within 14 days.<sup>41</sup>

**Tip:** Call Legal Aid for help.

This document is intended to provide general information about the topic covered and is made available with the understanding that it does not render legal or other professional advice. We believe it is accurate as of June 2002, but the law changes often. If you need legal advice, seek help from a competent attorney.

### **Endnotes Explanation**

The endnotes below are legal citations for the information above. To look up the laws that apply to you, visit your local law library. Don't be scared to look up the law to understand your rights.

- Health & Safety Code applies to licensed child care providers and to some license exempt providers.
- Educ. Code is the California Education Code. It provides information about child care subsidies, including CalWORKs child care.
- Welf & Inst. Code is the California Welfare & Institutions Code. It covers CalWORKs cash grant and work requirements.

- MPP is the California Department of Social Services (DSS) Manual of Policies and Procedures, the regulations issued by DSS.
- An ACL is a DSS All County Letter. It gives more detailed information than the MPP; a Management Bulletin is a similar document from the California Department of Education.
- CA Code of Regs. is the California Code of Regulations. Title 22 applies to licensed child care and Title 5 applies to subsidized child care.

## Useful Resources

- Call **Legal Aid** if you are a low-income CalWORKs participant who needs free help with a problem. Look in the telephone book or call the Coalition of California Welfare Rights Organizations at (916) 736-0616 to find out about the Legal Aid office near you.
- Call your **County Bar Association Referral** service to find a private attorney or legal aid office. Look in the telephone book or visit the California Bar Association website at [www.calbar.org](http://www.calbar.org) to find the telephone number.
- Call a **Resource and Referral** agency if you are a CalWORKs participant who wants help finding child care, if you are a child care provider who wants CalWORKs participants with child care subsidies to be referred to you, or if you want to find out where to apply for CalWORKs child care. Call the California Resource and Referral Network at (415) 882-0234 or visit their website at [www.rrnetwork.org](http://www.rrnetwork.org) to get information about your local Resource and Referral agency. If you are a parent looking for child care, you can call 1-800-543-7793.
- Call the **Child Care Law Center at (415) 394-7144** for information about child care issues. We are a national and California child care support center for legal services programs, and we:
  - Provide information and referral over the telephone on Mondays, Tuesdays, and Thursdays from 12 to 3.
  - Write useful publications, including the following *Questions and Answers on CalWORKs Child Care: Introduction, Appeals and Hearings, and Diversion* (Visit our website at [www.childcarelaw.org](http://www.childcarelaw.org)).
  - Conduct trainings for CalWORKs recipient groups, community agencies, and others.
  - Provide legal representation only in cases that have an impact on many people.
- Visit the website of the Legal Services of Northern California, [www.lsn.net](http://www.lsn.net) for information about California laws.
- Visit the website of the Western Center on Law and Poverty, [www.wclp.org](http://www.wclp.org), to read their superb CalWORKs manual.

1. Welf. & Inst. Code §§ 11200 *et seq.* and 11310 *et seq.*; MPP § 42-701.1
2. Welf. Inst. Code 11310 *et seq.*; MPP § 42-701.1.
3. Welf & Inst. Code § 11320.15, 11323.2(a); MPP §§ 47-220.1, 220.2; Educ. Code § 8354(a).
4. Welf & Inst. Code §§ 11320.15; 11320.3
5. Welf. & Inst. Code § 11266.5(b) and (e); MPP §§ 81-215.3, .12
6. Welf. & Inst. Code §§ 11266.5, 11266.5(d); MPP §§ 81-215, 81-215.331
7. Welf. & Inst. Code § 11266.5(b), (d); MPP § 81-215.32
8. Welf. & Inst. Code § 11266.5(f); MPP § 81-215. The law says Diversion is for CalWORKs applicants and does not restrict former CalWORKs participants.
9. Welf. & Inst. Code § 11266.5(b); MPP § 81-215.32
10. Welf. & Inst. Code § 11266.5(b); MPP § 81-215.12, .32
11. DSS All County Letter No. 00-08, *California Work Opportunity and Responsibility to Kids (CalWORKs) Program County Policies and Procedures*, January 3, 2000
12. Welf. & Inst. Code §§ 11266.5(b)(2 - 4)
13. Welf. & Inst. Code §§ 11266.5(b)(2 - 4), 5 CCR §§ 18400(d), 18406(a)(3)(c), 18421(a)(3)(B)
14. Welf. & Inst. Code §§ 11266.5(b), 11266.5(c)
15. Welf. & Inst. Code § 11266.5; MPP § 81-215.41
16. Welf. & Inst. Code §§ 11266.5(i), 11323.2(a); Educ. Code §§ 8350.5, 8351, 8353, 8354; DSS All County Letter 97-68, *Implementation of the Diversion Program – California Welfare Opportunity and Responsibility to Kids (CalWORKs) Program*, Att. 1, October 29, 1997
17. Educ. Code § 8263(a)(2); MPP § 47-101.2

18. Educ. Code §§ 8202(a), 8263.1; MPP § 47-101.2, 5 CCR §§ 18406, 18421
19. Educ. Code § 8350(b)
20. Educ. Code § 8350(b); MPP § 47-101.3
21. Educ. Code § 8351; MPP § 47-101.4
22. Educ. Code § 8353(a), (b); MPP § 47-101.4, 5 CCR §§ 18411, 18426, 18400(o), (p)
23. Educ. Code § 8351(a).
24. Educ. Code § 8353(b); MPP § 47-101.4, 5 CCR §§ 18400(o), (p)
25. Educ. Code § 8220; 5 CCR § 18013(e)
26. Educ. Code § 8357(e); MPP § 47-420.1, DSS ACL 01-22 (March 14, 2001), CDE Management Bulletin 00-26, July 2001
27. Educ. Code § 8357(e); MPP § 47-420.2, 5 CCR §§ 18411(d), 18426(d)
28. CA Health & Safety Code § 1596.792(d); 22 CCR § 102358(a)(1)
29. MPP § 47-101.2; CDE Management Bulletin No. 99-03, *Revised Single Application to Determine Eligibility and Need for Child Care and Development Services*, December, 1999.
30. MPP § 47-420.3; 5 CCR §§ 18118, 18119(a)
31. MPP §§ 22-004.2-22-004.3, 22-003; 5 CCR 18120(a)
32. MPP § 47-420.3; 5 CCR §§ 18118, 18119(a)
33. MPP § 47-420.3; 5 CCR 18119(a)
34. MPP § 22-071; 5 CCR 18118
35. MPP § 22-003; 5 CCR § 18120(a)
36. MPP § 22-049.7; 5 CCR § 18120(i)
37. MPP § 47-420.32; 5 CCR § 18120(b)
38. 5 CCR §§ 18121, 18120(a); Educ. Code § 8351(a); Educ. Code § 8353(b); MPP § 22-009
39. Welf. & Inst. Code § 10951; MPP § 22-009.1
40. MPP § 22-027.5
41. 5 CCR § 18121(a)