

County of San Diego, Health and Human Services Agency (HHS)
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Background:

- Program regulations require that past or present victims of domestic violence not be placed at further risk or unfairly penalized by CalWORKs requirements or regulations.
- Requirements are not to be created or applied in such a way as to encourage a victim to remain with an abuser.
- Domestic violence policies for the CalWORKs Program were developed, as required by State law, to identify and assist CalWORKs customers who are past or present victims of domestic violence to obtain employment and become self-sufficient.

Policy

40-100.O.1 Definitions

Domestic violence means battering or subjecting a victim to extreme cruelty by:

- Physical acts that result in, or threaten to, result in physical injury
- Sexual abuse
- Sexual activity involving a child in the home
- Being forced to participate in nonconsensual sexual acts or activities
- Threats of, or attempts at, physical or sexual abuse
- Mental abuse
- Neglect or deprivation of medical care
- Stalking

Domestic Relationships are relationships between individuals who:

- Are current or former spouses/partners
- Live, have lived, together
- Are dating/have dated
- Are engaged in, who have engaged, in a sexual relationship
- Have children in common

40-100.O.2 Confidentiality

Eligibility Worker and Employment Case Manager (ECM) must ensure the confidentiality of any information pertaining to customers who claim to be victims, and their dependents, whether provided by the customer or by a third party.

Information with respect to victims and their dependents must not be released to:

- Outside parties or other governmental agencies
- The worker or ECM not directly involved in the customer's CalWORKs cash case or Welfare-To-Work (WTW) case with the following exceptions:
 - The information is required to be disclosed by law
 - The release was authorized in writing by the customer

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This includes the following information:

- The customer's current address
- The customer's workplace or work placement
- That the customer's has been identified as a victim of abuse
- Any details concerning the abuse

This information must be used solely for the purpose of referral to services or determining good cause for failure to comply with any program requirement.

The worker and ECM must discuss personal safety with customers who have been identified as domestic violence victims. The customers will be provided the opportunity to make decisions about how they are to receive communications and correspondence from the county, subject to due process requirements. The safety of the customer must be considered at all times.

40-100.O.3 Staff Training

Family Resource Centers (FRCs) and WTW contractors are responsible to ensure that their workers and ECMs participate in domestic violence training. Eligibility Operations will coordinate domestic violence trainings for workers and ECMs in accordance with State regulations.

40-100.O.4 Identification of Victims

Identification of victims is accomplished by self-identification, as some victims may be deterred from seeking services and become more reliant on abusive partners, or they may simply deny the abuse if pressured to answer questions about abuse.

A customer may self-identify any time while applying/receiving CalWORKs and/or while participating in the WTW program. Customers must be provided a safe and private physical space to confidentially disclose domestic abuse.

The customer must be advised that all responses to the question concerning domestic violence are optional and that answers indicating abuse will not have a negative effect on his/her CalWORKs eligibility and/or ability to participate in the WTW Program.

The worker/ECM will explain that the information is being requested to better assist the customer in becoming self-sufficient, while promoting his/her safety.

Individual case assessment, performed by staff who are trained to serve victims of abuse, is crucial to determine the need for waivers of program requirements. These waivers may be requested and help develop WTW plans that meet the individual's needs. Each customer who has been identified as a victim of domestic abuse must be referred to staff who are trained in serving victims of domestic abuse.

40-100.O.5 Domestic Violence Documentation

A sworn statement by the victim is sufficient to establish abuse unless there is documentation in writing that an independent and reasonable claim finds the customer not credible. In those instances, additional supporting documentation will be requested.

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Additional supportive documentation of abuse includes:

- Police, government agency or court records or files
- Documentation from a domestic violence program, legal, religious, medical or other professional from whom the customer has sought assistance
- A domestic violence waiver request form, signed by the customer
- Any other evidence such as statements from other individuals with knowledge of the circumstance, which provides the basis for the claim, physical evidence of abuse

40-100.O.6 Domestic Violence Waiver Request

Customers may request a waiver of specific CalWORKs/WTW program requirements at any time.

Customers identified as victims do **not** automatically qualify for a program waiver. When evaluating criteria for granting waivers, the worker/ECM will ensure:

- Victims are not placed at further risk or unfairly penalized by CalWORKs/WTW requirements and procedures
- Program requirements are not created or applied in such a way as to encourage a victim to remain with the abuser
- Participation by CalWORKs customers in WTW activities is encouraged, to the fullest extent of their abilities, including participation in counseling and treatment programs, to enable the customers to obtain unsubsidized employment and move toward self-sufficiency

The worker/ECM will determine if good cause exists, and clearly narrate in case comments the determination outcome and what prevents the customer from complying with the program requirement, obtaining employment, or participating in WTW activities.

A domestic abuse waiver determination Notice of Action (NOA), containing the state hearing rights on the back, will be used to notify the customer when his/her request for a domestic violence waiver is approved, denied, or discontinued. The approving NOA must notify the customer that the domestic violence waiver is temporary and will end. If known, the planned ending date also needs to be included on the NOA. A copy must be imaged or filed in the case file.

Good cause for waiving program requirements for victims include, when the victim:

- Is currently fleeing the abuser and is in temporary housing or homeless
- Has recently entered a shelter
- Is concerned about the safety of his/her children
- Is party to a restraining order or divorce action against the abuser
- Is (and/or his/her children are) undergoing counseling to cope with the effects of the abuse

40-100.O.7 WTW Plan for Victims of Domestic Violence

The WTW plan will be designed in a manner to preserve confidentiality and integrity of the service provider and participant relationship, when reviewing a customer's participation in domestic violence services. The health and safety of the customer and his/her children need to be the primary considerations.

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The ECM will:

- Incorporate the victim's treatment schedule into the WTW Plan, in a manner that will not place the customer at further risk and to which the participant can agree, giving priority to treatment activities
- Ensure that all domestic violence documentation is imaged or filed into the case file

Failure to remain compliant with the WTW plan, including participation in treatment services for domestic violence, may be evaluated for a WTW sanction and/or ending the waiver.

Refer to Processing Guide 40-100.O1 for additional information related to WTW plan for victims of domestic violence, and Processing Guide 40-100.O3 for domestic violence protocols related to WTW.

40-100.O.8 Domestic Violence Waiver Reevaluation

Waivers may **not** be granted permanently. Workers/ECMs will reevaluate the good cause at least every three months. WTW related waivers will be monitored monthly.

A waiver may continue for an indeterminate period as long as the worker/ECM affirms that the conditions or circumstances that supported the granting of the waiver remain applicable.

Refer to Processing Guide 40-100.O3 for complete domestic violence protocols related to WTW.

40-100.O.9 Domestic Violence Waiver Retroactivity

Domestic violence waivers may be granted retroactively for up to three months from the date the customer requests a waiver and the worker/ECM determines that good cause exists.

A waiver may be granted retroactively for more than three months only in circumstances due to an error by the worker/ECM. In these circumstances, the customer would need to demonstrate that:

- He/she notified the worker/ECM that he/she was a victim
- He/she requested a waiver but the worker/ECM failed to act
- The waiver request was not processed/followed appropriately
- The condition or circumstances during the time period at issue temporarily prevented or significantly impaired the recipient from being regularly employed or participating in WTW activities

The waiver would be effective retroactively to the date when the worker/ECM was notified by the customer.

40-100.O.10 Domestic Violence Waivers

A domestic violence victim may have certain CalWORKs program regulations waived from WTW activities on a case-by-case basis.

The following program regulations will not be waived due to domestic violence:

- Deprivation
- Property (real and personal)
- Income
- Homeless Assistance eligibility criteria

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Program requirements/regulations that may be waived include:

- WTW Participation Domestic Violence Waiver (Good Cause)
Reference: CPG 10-020.B
- Paternity Establishment/Child Support Cooperation Domestic Violence Waiver (Good Cause)
Reference: CPG 43-200.D
- Time On Aid (TOA) Domestic Violence Waiver
References: CPG 15-100.C, CPG 15-100.D, CPG 15-100.J
- Maximum Family Grant (MFG) Domestic Violence Waiver
Reference: CPG 44-300.C
- Homeless Assistance Domestic Violence Waiver
Reference: CPG 44-200.C
- Noncitizen Rules Domestic Violence Waivers
References: CPG 42-400.F, CPG 42-400.G, CPG 42-400.H, CPG 70-100.A

There must be a linkage to the customer's domestic abuse circumstances that temporarily prevents him/her from working or participating in WTW activities. The evaluation is to determine if the customer's abusive circumstance temporarily prevents or significantly impairs his/her ability to be regularly employed or participate in WTW activities.

If during the domestic violence waiver period, the customer fails to comply with any domestic violence requirements without good cause, the worker/ECM will end the waiver(s) with adequate and timely notice.

Once the domestic violence waiver has been terminated for Non-Compliance, the customer must comply with the required WTW Plan including the domestic violence requirements, and may submit a new waiver request for evaluation, before the domestic violence waiver can be reinstated.

40-100.O.11 Required Child Welfare Services (CWS) Referral

Per Health and Human Services Agency (HHS)A) policy, **ALL** HHS)A) employees are mandated reporters of suspected child abuse or neglect.

If a customer discloses a domestic abuse situation and a child is at risk, the worker/ECM must report the incident immediately.

Reports should be made to the Child Welfare Services (CWS) Child Abuse Hotline at **(858) 560-2191**, or to the State of California toll free at **(800) 344-6000**.

http://www.sandiegocounty.gov/hhsa/programs/cs/child_welfare_services/child_abuse_hotline.html

Refer to HHS)A) Chapter: Policy, Strategy and Program Development No. HHS)A)-H-1 on how to report suspected child abuse/neglect:

<http://insite.sdcounty.ca.gov/hhsa/Misc%20Policies/Child%20Abuse%20Reporting.pdf>

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The referral must be documented in the case file.

CWS staff will assess the victim's need for ongoing services and will notify the ECM of the victim's treatment schedule, if applicable.

Note: CWS staff may request that the worker/ECM who made the referral to follow up with a suspected child abuse report form.

Reference: Penal Code Sections 11164-11174.3

40-100.O.12 Resources and Referrals for Domestic Violence Services

Each customer who has been identified as a victim of domestic violence must be referred to domestic violence service providers.

These resources include:

- Domestic violence agencies
- Medical services
- Legal counseling and advocacy
- Immigration resources
- Criminal process victim advocates
- Mental health care, counseling, support groups
- Financial assistance for victims of crime

Note: A copy of the resource guide must also be available in the lobby of each FRC and Employment Services site.

40-100.O.13 Informing Victims of Domestic Violence Services and Good Cause

The worker/ECM will provide information regarding the availability of domestic violence services during the:

- CalWORKs intake process
- Annual redetermination
- WTW Orientation
- Development of the WTW plan
- Anytime the customer requests domestic violence information

This information will be provided both verbally and in writing via the resource guide.

Also see Identification of Victims and Resources and Referrals for Domestic Violence Services sections above.

40-100.O.14 Residency Issues

In some cases, a victim who is a resident of another state may flee to California temporarily to escape abuse.

Evaluation for waivers of immigrant-related requirements under the CalWORKs program and of the state residency requirement requires approval from the Eligibility Operations Director.

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40-100.O.15 Inter-County Transfers (ICT)

A permission form to release domestic violence information is needed for ICTs. The form must be provided to the customer when moving to another county. Customers have the option to have our county share with the new county any domestic violence related information available in the case in our county.

References: CPG 40-100.P, EPPG 4

40-100.O.16 Safe at Home Program

The Safe at Home Program is to help domestic violence victims remain safe after they have left an abusive situation.

Each certified participant of this program is assigned a substitute Post Office (P.O.) Box address to use in place of a home, work or school address. This P.O. Box address becomes confidential when the customer enrolls in the Safe at Home Program.

If a customer is interested in enrolling in the Safe at Home Program, they must contact one of the local agencies. For updated list visit the following site: <http://www.sos.ca.gov/safeathome/safe-at-home-agencies-new.htm#agency-S>

Procedure:

1. Site managers must take extra precautions to ensure the confidentiality of domestic violence victims, depending on the level of risk to the victim's safety.
2. Domestic violence victims may complete a domestic violence waiver request form, indicating the program requirements he/she is requesting a waiver for, and submit the waiver request form to the worker/ECM for evaluation and determination.
3. A domestic violence victim who is in immediate crisis must be referred for services in an expedited manner.
4. The worker/ECM will assist in finding alternative methods of obtaining verifications when circumstances prohibit the customer from returning to the home to obtain the verification.
5. Refer to Processing Guide 44-100.O1 and Processing Guide 40-100.O3 for additional waiver information.
6. Refer to Processing Guide 44-100.O2 for required CalWIN entries related to domestic violence information.

Impacts:

CalFresh regulations pertinent to victims of domestic violence:

- 63-124.2, 63-245.2
A customer may be aided in two different households for the same month; and eligibility may be based on the income and expenses, for which they are responsible, as of the date of the interview.
- 63-155.5, 63-155.15, 63-155.18, 63-156.4, 63-158.3, 63-161.2
Treatment of qualified immigrants, social security number and work registration exemptions for victims of human trafficking/other serious crimes or non-citizen victims of domestic violence.

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Medi-Cal regulations pertinent to victims of domestic violence:

- 15.01.01, 15.01.03
Medi-Cal customers are required to report and use any Other Health Coverage (OHC). Good cause due to domestic violence may be used to remove OHC codes from MEDS.
- 7.3.01
Aliens who are battered or subjected to extreme cruelty may be considered qualified aliens, and entitled to full scope Medi-Cal benefits if they meet certain criteria.
- MPG Article 4, Section 18.8
Good cause for noncooperation in establishing paternity, medical support payments, or identifying third party liability.

References:

EAS 42-715, ACL 14-59

Approval for Release:

March 7, 2016

Sunset Date:

This policy will be reviewed for continuance by January 31, 2019.