

**County of San Diego, Health and Human Services Agency (HHS)A)
General Relief Program Guide (GRPG) Letter**

Appeals Update and Good Cause Determination Correction

Number

81

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Issue Date:

June 15, 2015

Effective Date:

Upon Receipt

Purpose:

To provide:

- update to the Appeals section
- correction to Good Cause Determinations

Background:

Family Resource Centers (FRCs) must comply with the GR Hearing decision.

A Notice of Action (NOA) is required to impose a sanction for non-compliance with Employable Program requirements.

Policy Change:

FRCs must comply with the Hearing Decision within 30 days of the date of the decision.

The GR worker sends the sanction notice. This corrects the language in the GRPG.

Summary of Changes:

90-700.18 – Corrected language in this section regarding the sending of the sanction NOA.

90-900.3 – Added due date for compliance with Hearing Decision.

Impacts:

Automation

No impact.

Forms and Document Capture:

No impact.

Other Programs Affected:

None

Quality Control:

Quality Control will cite the appropriate error when the regulations cited in this material have not been followed.

References:

County Policy

Sunset Date:

This policy will be reviewed for continuance by June 30, 2018.

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Approval for Release:



Rick Wanne, Director
Eligibility Operations

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Good Cause Evaluation

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90-700.18

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Issue Date:

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Background:

90-700.18.A

This section shows how good cause is evaluated for non-cooperation with GR Employable Program requirements.

Purpose:

To provide instructions for determining good cause for non-compliance in the Employable Program.

Policy:

90-700.18.B

When non-compliance with an Employable Program requirement occurs, notify the recipient in writing and allow them five days to offer an explanation of the non-compliance. This explanation will be used in the Good Cause evaluation to determine if the non-compliance was due to circumstances beyond the recipient's control, negligence, or willfulness.

Procedure:

90-700.18.C, Definitions

The table below shows the definitions of terms used in this section.

Term	Definition
Circumstances Beyond the Recipient's Control	<ul style="list-style-type: none"> • A medical emergency, hospitalization, doctor's appointment, personal/ household illness or crisis on the day of absence • Incarceration, arrest, jail, or required court appearances • Prearranged job interview • Non-receipt of initial aid when no fault of recipient and distance to worksite is too far to walk • The recipient was incapacitated during the assignment dates • The recipient started a job or paid training <p>Verification requirements are in section D, below.</p>
Negligence	Includes haste, oversight, forgetfulness, lack of attention or misunderstanding, or any other reason, which does not involve a willful failure to comply.
Willfulness	The failure to comply with published and signed expectations when there was no good cause for the failure. It is an intentional refusal to comply and/or an indifferent disregard of the duty to comply with program requirements.

90-700.18.D, Verification Requirements

The recipient's ability and willingness to prove that non-compliance was due to circumstances beyond the recipient's control or negligence will be fully evaluated.

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90-700.18.E, Standard Verification

Standard verification will consist of written proof or a third party verification by phone of circumstances beyond the recipient's control or negligence provided by a disinterested third party.

90-700.18.F, Circumstances Not Requiring Verification

When the recipient fails to provide standard verification, the CalFresh E&T SW will determine if the recipient:

- has become homeless within the past 30 days, exhibits physical/mental distress, and has no prior history of homelessness within the past six months
- is visibly incapacitated (not to include back injuries, migraine headaches, arthritis, sprains, or other conditions not visible to the naked eye)
- has received GR for less than three months, identifies a specific program requirement not understood, and has not used this excuse in the past (SW Supervisor's approval and second written explanation of requirements required)

If one of the circumstances above is applicable, the sanction will not be applied.

90-700.18.G, Lack of Standard Verification

Recipients who are unable to provide standard verification or who do not meet one of the conditions in F, above, will be allowed two unverified instances of non-compliance with Employable requirements (not to exceed one day's duration) due to circumstances beyond control or negligence. In such cases, the recipient will receive another explanation of program requirements and the sanction will not be applied.

90-700.18.H, Potential FRC Manager Waiver

When the recipient's explanation of non-compliance is not verified, or the recipient does not meet the conditions described in F, above, and the two unverified instances of non-compliance for cause have been exhausted, the FRC Manager may grant a waiver of the sanction when the following conditions exist:

- No such waiver has been granted during the current certification period
- The recipient could not have obtained verification of the circumstances
- The recipient's explanation is both consistent and credible

When these conditions exist, the CalFresh E&T SW will refer the matter to the FRC Manager for evaluation. If a waiver is approved, no sanction will be applied.

90-700.18.I, Completion of Good Cause Determination Worksheet

Form 11-67 HHSA, Good Cause Determination Worksheet, must be completed for all good cause evaluations, even when the recipient does not respond. The table below shows the actions that must be taken for the good cause determination for each requirement that is not completed.

Requirement	Action
Job Searches (JS)	<ul style="list-style-type: none"> • Late and incomplete JSs without a verified excuse are considered one instance only for good cause determinations

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	<ul style="list-style-type: none"> Expanded JSs only represent one instance if they are incorrect or incomplete A late JS as a third instance of negligence only imposes a one-month sanction, regardless of the type of failure for the first two instances
Orientation	<ul style="list-style-type: none"> Missed orientations must be completed before a Work Project (WP) can be assigned. An 11-67 HHSA must be completed and applicant rescheduled as appropriate The three months of GR Employability need not be contiguous If an applicant misses orientation (and the following two days of the Work Test) and contacts the worker three days later, this would constitute one instance because the applicant had not yet been assigned to a WP.
Program Requirements	Unfamiliarity/misunderstanding with the GR Employable Program requirements is only acceptable once for any reason in the lifetime of the case, and does not count as an instance of negligence.
Modified Aid Payment Cycle (MAPC) Cases	MAPC status does not reset the three-month clock for determining the number of negligent instances.
Work Project (WP)	<ul style="list-style-type: none"> Recipients sent back by a worksite supervisor require that a good cause determination be made and appropriate action taken based on that determination Each different excuse for a specific day must receive an 11-67 HHSA addressing that day (for example, Day 1, 2, and 3 must be addressed separately if they were missed for different reasons. If they were all missed for the same reason, one 11-67 HHSA may be used) An expanded JS may be substituted for an interrupted WP which cannot be completed in the remainder of the month (however, this does not repay GR)
Waivers	<ul style="list-style-type: none"> A waiver is not required unless the circumstances would require it (for example, a credible explanation for the Employable requirement that was missed is provided) Appeals can overturn a FRC Manager waiver, but it must be approved by the GR Hearing Officer's Manager FRC Manager waivers may be received once each certification period
No Response from Recipient	<ul style="list-style-type: none"> There is no need to determine good cause for a recipient who does not return to provide verification for missing an Employable requirement. However, a 11-67 HHSA must still be completed and checked "willful" in Section 6 Good cause determination worksheets must be provided in every case closed for failure to comply with Employable requirements
Addendum	<ul style="list-style-type: none"> The 11-67 HHSA should be signed on the closing date of the case If Good Cause can be determined, no instance is counted against the recipient

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Impacts:

Other Programs Impacted:

None

References:

GRPG Letters [62](#), [65](#), and [81](#)

Sunset Date:

This policy will be reviewed for continuance by June 30, 2018.

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Hearing Process

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General:

90-900.3.A

GR Hearings are usually held without the worker present. Therefore, it is essential the case record have sufficient documentation to stand alone. However, upon a 1 work day advance notice, the worker may be requested to be on stand-by to give telephone testimony. If the presence of the worker has been requested, it will also be with 1 work day advance notice and will be considered County release time. If the worker is on approved leave, the applicant/recipient will have the option to proceed without the worker's presence or to have the hearing continued until the worker can be present. Aid Paid Pending (APP) should be paid if the hearing is rescheduled due to the worker's unavailability. For a worker on stand-by, interviews with the applicants/recipients at Family Resource Centers (FRCs) are not to be interrupted for the hearing. The applicant/recipient will have the option to proceed without the worker's testimony or to have the hearing continued when the worker is available.

The Hearing Officer will determine if additional witnesses, not present at the hearing, must be contacted to ensure a fair rendering of a decision. If appropriate, the Hearing Officer will use the speaker-phone in the hearing room to contact witnesses. This affords the applicant/recipient the opportunity to confront and cross-examine adverse witnesses. The telephone in the hearing room will have conference call capability, enabling all parties' equal access to the entire conversation.

The Hearing Officer will review the case file and admit items into evidence during the hearing with a detailed description (for example, Case Comments from March 1, 2011 through May 30, 2011 or NOAs dated May 20, 2011). Copies of the items admitted into evidence may be provided to the customer or representative (with the exception of items that by rule are not to be provided).

If additional information is needed and the witness is not available during the hearing, the Hearing Officer will request the information in writing and copy the customer or representative on the request and response. There will be no phone calls or other gathering of information not in the presence of the customer or representative outside of the hearing. The customer or representative will be allowed the opportunity to respond to or refute the additional information that was obtained. If needed, a continued Hearing could be scheduled.

****The settlement agreement in the WRO v. Bacon decision provides that each GR Hearing will be tape recorded.****

Purpose:

To provide instructions for reception in the GR hearing process.

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Policy:

Follow the requirements identified below for the GR hearing process.

Procedure:

90-900.3.B, Hearing Procedures

The table below shows the actions for the GR Hearing and the responsible individual.

Step	Responsibility	Action
1	GR Hearing Officer	Explain how the hearing will be conducted.
2		Follow requirements under <u>WRO v. Bacon</u> noted in 90-900.4.D .
3		Administer an oath or affirmation to the applicant/recipient and any witnesses to tell the truth of the facts as they relate to the issue.
4		Administer an oath or affirmation to any interpreter or translator requiring an accurate translation.
5		Conduct the hearing in a fair and impartial manner.
6		Record notes for hearing decision preparation.
7		Limit the issues to those which are reasonably related to the request for hearing.
8		Review the proposed County action and the preceding events point-by-point.
9		Evaluate the witness' credibility, apparent knowledge of the facts, and extent of memory of the facts related.
10		Ensure the hearing rights of the applicant/recipient are observed.
11	Appeals Manager	Routinely review all GR Hearing decisions.

90-900.3.C, General Provisions for Hearing Decisions

- A decision is to be completed within 15 calendar days from the date of the hearing. Extenuating circumstances are to be documented and APP extension may be required
- The GR Hearing Clerk will image the decision in CERMS and distribute copies to the following:
 - Applicant/recipient
 - GR Hearings files in the Appeals Section
 - Authorized Representative, if any
- The GR Hearing Officer will note the reduction/adjustment in the Work Project (WP) or Job Searches (JS) in the decision
- **The Appeals Manager will routinely review all GR hearing decisions**
- Aid will be retroactively granted when a denial is found in error. If otherwise eligible, the effective date of aid and the date of the lien will be the date of application or when all eligibility factors are met, whichever is later
- Aid will be retroactively granted to the effective date of the adverse action when a discontinuance or grant reduction is found in error
- The FRC will take action to grant or restore aid within 30 days of the date of the decision.

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If ...	Then ...
APP has been issued,	it will be adjusted out of the aid payment.
the decision is against the claimant,	APP will be considered an overpayment.
the FRC disagrees with the decision,	a review may be requested after the decision has been implemented and all documents are imaged in the case record. The entire case, with a letter/memo explaining the area(s) of disagreement, including GRPG references, will be sent to the Appeals Manager. The Appeals Manager will review the hearing decision and provide a written response to the FRC Manager.

90-900.3.D, Retroactive Aid v. New Application

The table below shows if a new application or retroactive aid will be required.

When ...	Then ...
the denial action was not in accordance with regulations and all other eligibility factors were met at the time of the denial,	retroactive aid will be paid.
the discontinuance or reduction of aid was not in accordance with regulations,	
the recipient presents verification of attendance at a WP when the discontinuance was due to non-attendance,	
verification of good cause for failure to meet JS or WP requirements is provided,	a new application will be required.
a denial is overturned by the hearing decision but all other eligibility factors were not met at the time of the denial,	
the recipient was provided the opportunity to verify JS contacts but failed to do so at that time without good cause, but later provides the verification at the hearing,	
Note: In this situation, the GR Hearing Officer will find for the County but will waive the sanction or penalty.	

Impacts:

Other Programs Impacted:

None

References:

GRPG Letters [68](#), [77](#), and [81](#)

Sunset Date:

This policy will be reviewed for continuance by June 30, 2018.