

October 14, 2022

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 22-80

The purpose of this letter is to implement changes to how California Work Opportunity and Responsibility to Kids (CalWORKs) Welfare-To-Work (WTW) self-employment participation hours are calculated as a result of Assembly Bill (AB) 461 (Chapter 582, Statutes of 2021).



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GAVIN NEWSOM
GOVERNOR

October 14, 2022

ALL COUNTY LETTER NO. 22-80

TO: ALL COUNTY WELFARE DIRECTORS
ALL CALWORKS PROGRAM SPECIALISTS
ALL CALWORKS WELFARE-TO-WORK COORDINATORS
ALL COUNTY CALWORKS ELIGIBILITY SPECIALISTS
ALL COUNTY CALFRESH SPECIALISTS

SUBJECT: **CHANGES TO HOW CALWORKS WELFARE-TO-WORK (WTW) SELF-EMPLOYMENT PARTICIPATION HOURS ARE CALCULATED AS A RESULT OF ASSEMBLY BILL (AB) 461 (CHAPTER 582, STATUTES OF 2021)**

REFERENCE: [TITLE 45 CODE OF FEDERAL REGULATIONS \(CFR\) SECTION 261.60](#); [ASSEMBLY BILL \(AB\) 461 \(CHAPTER 582, STATUTES OF 2021\)](#); [WELFARE AND INSTITUTIONS CODE \(WIC\) SECTIONS 11322.6\(i\) AND 11322.6\(r\)](#), AND [WIC SECTION 11322.82](#); [MANUAL OF POLICIES AND PROCEDURES \(MPP\) SECTION 41-440.1\(b\)](#), [MPP SECTION 42-701\(e\)\(2\)](#), [MPP SECTION 42-701\(s\)\(1\)](#), [MPP SECTION 42-711.5](#), [MPP SECTION 42-716.1\(r\)](#), [MPP SECTION 42-750.112](#) and [42-750.113](#), [MPP SECTION 42-750.21](#), [MPP SECTION 42-750.42](#), [MPP SECTION 44-113.212](#), [MPP SECTION 50-023.4](#), AND [MPP SECTION 63-503.41](#); [ALL COUNTY LETTER \(ACL\) No. 00-12](#) AND [ACL 04-04](#), AND [ALL COUNTY INFORMATION NOTICE I-03-12](#).

The purpose of this All County Letter (ACL) is to implement changes, effective October 1, 2022, to how Welfare-To-Work (WTW) self-employment hours are counted towards participation requirements as a result of passage of [Assembly Bill \(AB\) 461 \(Chapter 582, Statutes of 2021\)](#).

Often a self-employment venture can take time before showing a profit. As a result, calculating self-employment participation hours based on self-employment income meant participants may have needed to participate in other activities to meet their hourly WTW requirements, hindering development of the business. Basing the calculation of self-employment hours on self-reported participation in those activities, instead of income, allows participants to focus on their business and more accurately reflects the actual time needed to devote to a business.

AB 461 changes how self-employment activity hours for a California Work Opportunity and Responsibility to Kids (CalWORKs) WTW participant are calculated. The hours in a WTW self-employment activity is now solely based on the number of hours the participant is engaged in performing the self-employment itself. Participants must self-report the number of hours spent engaging in self-employment; for example, a participant with a childcare business would report the number of hours spent doing that business. Self-employment provides participants a WTW employment option that is geared towards their interests and abilities, while improving participation in WTW, reducing income supports, and increasing long-term career opportunities, ([MPP Section 42-701\(e\)\(2\)](#) and [MPP Section 42-701\(s\)\(1\)](#)).

This bill does not change the role of the County Welfare Department (CWD) in approving the self-employment activity. The CWD has discretion in approving activities and should follow their current practice to determine if a participant is self-employed.

Calculation of Hours

Currently, self-employment participation hours are calculated by taking the self-employment income (gross income less business expenses) divided by the federal minimum wage.

As result of AB 461, starting October 1, 2022, self-employment participation hours will be calculated by the number of self-reported hours the participant is engaged in self-employment activities. These hours can include, but are not limited to:

- Time spent performing the self-employment activity itself;
- Tasks that may be associated with launching and/or maintaining a business, such as creating products, advertising, marketing, and other sales activities; and
- Other business-related activities, like business location set-up and maintenance.

These hours are self-reported to the CWD, either verbally, through written self-attestation, a timesheet, projected hours from previous months, a business plan, or by other means as determined by the county. No further verification is required. The method the county chooses should be one that does not overly burden the client and should be consistent with other employment activity verifications.

While any number of hours reported is allowable, the CWD should encourage the participant to grow their business so that it becomes profitable. Since the participant can claim any number of hours to meet WTW standards, the CWD should interact with the participant to ensure they are on a path to reducing their need for support and increasing their long-term success.

Income reporting will still occur for eligibility determinations; however, the amount of income is no longer needed to determine WTW participation hours. This change removes the need for the WTW caseworker to conduct income calculations and allows WTW participants to self-report any hours spent in activities related to their business to meet hourly requirements. If a participant reports income and performing the income calculation provides the participant the necessary number of hours, the county can use those hours and not require additional documentation or other means of verification of hours spent in self-employment.

Self-Employment as a CalWORKs WTW Activity

The CWD is to follow their current practice to determine if a participant is self-employed and still must approve the activity. In unsubsidized employment, for a participant to be considered self-employed and be referred to assessment as allowed in [MPP Section 42-711.552](#), the participant must have income to support the hours. Otherwise, the participant would follow the normal WTW flow to participate in self-employment, ([MPP Section 42-711.5](#)).

EXAMPLE:

A WTW participant is self-employed as a salesperson selling a product door-to-door. The individual spent the following hours during the four-week period prior to the date of eligibility in connection with their occupation:

- 36 hours collecting orders for the product.
- 12 hours ordering the products from the supplier. This includes completing the necessary work and going to the post office.
- 5 hours developing and delivering flyers advertising the business.
- 4 hours with floor duty at the distributor's office.
- 32 hours delivering the products to the customers.
- 10 hours distributing new catalogs.

In this situation, all of the above hours count as hours worked because all hours were spent promoting the business or attempting to or making contact with prospective or actual customers, ([MPP Section 41-440.1\(b\)](#)).

If the CWD finds that the participant's business is not generating income for them, then the CWD should explore with the participant why this is happening. Some businesses take longer than others to generate income or a profit and the CWD should engage with the participant to discuss what the business may need to become successful. This could mean sharing resources to help the business become more profitable or may mean guidance in choosing other activities or methods of employment. As an example, the CWD could suggest bookkeeping classes, webpage design, or other activities related to the participant's business. The goal for the CWD and the participant should be to make a profit so that the participant can sustain their family and reduce the need for support.

The CWD can support and assist clients interested in becoming self-employed by helping them explore the Governor's Office of Business and Economic Development (GO-Biz) [CalGOLD website](#) to find out more about required licenses, permits, forms and fees needed for particular industries to operate within the county and city where the participant operates the self-employment activity.

Self-employed CalWORKs WTW participants must comply with all the same applicable business licensing, permitting, and tax reporting as any other business operating in their locality. Most new businesses in California are sole proprietorships. A sole proprietor runs their own business as an individual and is self-employed. To [establish a sole proprietorship](#), participants must choose a [Doing Business As \(DBA\) business name](#), for tax purposes, and obtain any licenses, permits, and zoning clearances needed to operate in their locality.

Additionally, businesses operating in California may need a business license, a seller's permit, and/or tax identification number to legally operate and remit the appropriate business taxes. WTW participants should visit the [California Department of Tax and Fee Administration \(CDTFA\) website](#) to find out more about the requirements needed to start a business, apply for a business license and seller's permit, or call CDTFA at 800-400-7115 for general information on starting a business. Other small business resources include [local Workforce Development Boards \(local boards\)](#) and the [California Small Business Association](#).

CWDs do not need to verify if a WTW participant has obtained any or all legally required business filings or documents to run a business in their locality as a condition of approving this activity. However, CWDs are encouraged to provide participants resources including those linked in this letter to assist them in finding the requirements to run their business.

Self-Employment and Supportive Services

Supportive services are to be made available to every participant when necessary to participate in self-employment, including child care, transportation and ancillary expenses as specified in [MPP Section 42-750](#). As a best practice, CWDs are encouraged to provide case management for self-employed participants to support them in ways that allow them to succeed in their own business.

Transportation is governed by the county's [CalWORKs County Plan](#) and regional market rates. The CWD is only required to provide the least costly form of public transportation ([MPP Section 42-750.112](#)). If this option is unavailable, participants may use their own vehicles. While the county cannot include a cap of monthly reimbursement, it is also important that a county does not reimburse for mileage if that mileage is part of the participant's business expenses as these types of expenses are offset in the eligibility income calculation during application and redetermination.

Ancillary expenses are those expenses required of a participant to do the job ([MPP Section 42-750.113](#)). CWD policies must clearly state how the county determines when an ancillary expense is necessary for an individual to participate in WTW activities ([ACIN I-03-12](#)). The county may provide tools, clothing, fees, etc. that a participant needs for their business. Any licensing, permitting, and other fees and expenses necessary for self-employed participants to comply with local operating requirements are allowable as an ancillary supportive service. However, the CWD is not obligated to pay all costs of the participant in starting a business. For instance, a laptop or a method to accept debit and credit cards could be an acceptable ancillary supportive service, but, as an example, four laptops, additional machines, other optional equipment, travel expenses, or other activities not approved by the county or provided for in their county plan may not be required to do the self-employment activities ([ACL 04-04](#)). Counties must decide what costs are reasonable and what level of equipment is needed, and may want to consider renting, leasing, or requiring participants to use equipment that is available to them at low or no cost to meet the individual's business needs when equipment is too expensive to purchase.

At eligibility determination and at each redetermination, it is important for CWDs to discuss with the participant how business expenses are used to offset gross income. The calculation for computing self-employment income is gross earnings less business expenses ([MPP Section 44-113.2](#)). Qualifying supportive services payments may also be deducted as a business expense. Self-employed participants can choose one of the following business expense deduction methods at redetermination or semiannual reporting (SAR 7):

- 40 percent of gross self-employed income, or;
- Reasonably anticipated self-employment expenses to the same extent allowed in the CalFresh Program per [MPP Section 63-503.41](#).

As a reminder, the calculation of a participant's net income for CalWORKs purposes may not be the same as the calculation for other programs and purposes, e.g. net income for Medi-Cal Adjusted Gross Income (MAGI).

While capping necessary ancillary services is prohibited, there is no prohibition against a secondary review of proposed service costs beyond a predetermined level of expenditures. For example, under the county's written policies, a county could permit staff to authorize or pay up to a certain amount in ancillary service costs. Expenditures above this amount could be subject to verification of need through a process involving a narrative explanation in the case file and a review by a supervisor. However, such processing should not interfere with the individual's participation and advance payment shall be made when necessary and desired so that the participant need not use personal funds to pay for these services (see [ACL No. 00-12](#), [ACL 04-04](#) and [MPP Section 42-750.21](#)).

As a reminder, per [MPP Section 42-750.42](#), CWDs shall inform participants of the requirement to provide prior notification to the CWD of changes in transportation and ancillary supportive services arrangements at least ten calendar days before an anticipated change, except in emergency or exceptional situations, and that if they do not tell the county in advance, the county may not be able to pay for the supportive services that have changed because they will have to pay the CWD back for any supportive services payments received but where not needed or they were not eligible to receive.

Self-Employment as a Federally Reported WTW Activity

For the purpose of the Research and Data Enterprise Project (RADEP) federal data reporting, a state may not count more hours toward the work participation rate (WPR) for a self-employed individual than the individual's self-employment income (gross income less business expenses) divided by the federal minimum wage. Therefore, while AB 461 enacted a new standard for calculating and meeting CalWORKs WTW participation requirements, federal authority still mandates how cases must be reported via the RADEP as described in the [California Department of Social Services TANF Program Work Verification Plan](#). Any hours calculated by the participant's income would be reportable as core hours and additional activities that fall outside of those would be reported as appropriate, depending on the activity.

CalWORKs Eligibility

Participant-reported hours for the WTW self-employment activity does not impact CalWORKs Eligibility; therefore, these changes will not require an eligibility review. Regarding income reporting, CalWORKs recipients must report income during the

Semi-Annual Reporting (SAR) period; Redetermination, Recertification, and Renewal (RRR); or anytime the recipient's income exceeds their Income Reporting Threshold (IRT). Regardless of self-reported WTW hours, income information for eligibility RRR will be collected, and if the participant meets the federal minimum wage calculation for WPR, those hours will be used for federal reporting ([MPP Section 44-113.212](#)).

Contact

If you have any questions or need additional guidance regarding the information in this letter, contact the CalWORKs Engagement Bureau at (916) 654-2137 or email CWEngagementPolicy@dss.ca.gov.

Sincerely,

Original Document Signed By

Jennifer Hernandez,
Deputy Director
Family Engagement and Empowerment Division