

11. Deprivation

11.1 Deprivation of Parental Support or Care [41-400]

Deprivation of parental support or care is a separate and specific eligibility factor for CalWORKs. A child's deprivation is based on the status of their parents.

The basis for deprivation shall be determined:

- At the time of application,
- When the SAR 7 is processed (once per year)

Impact of Semi-Annual Reporting on Deprivation

A CalWORKs recipient must demonstrate continued eligibility under the deprivation requirement only once per payment period based on the information reported on the SAR 7. Deprivation for an AU may change mid-period, but the EW cannot decrease benefits or discontinue the case based on changes in deprivation until the SAR 7 for the payment period is processed.

11.2 Basis of Deprivation [41-401]

A child is considered deprived of parental support or care if either parent is:

- Deceased.
- Physically or mentally incapacitated.
- Unemployed.
- Continually absent from the home in which the child is living.

When the child is deprived of parental support or care for more than one reason, eligibility may be established on any basis of deprivation. The basis of deprivation which permits federal participation shall be used whenever possible.

11.3 Definition of a Parent [41-403]

11.3.1 Parent

“Parent” means either the father or the mother, natural or adoptive, whether married or unmarried. Deprivation is based on the person presumed to be the legal parent unless rebutted by a statement of the mother or a court order. Deprivation of an adopted child is based on the status of adoptive parents and not that of the natural parents.

11.3.2 Preliminary Determination of the Person Presumed to be the Legal Parent

In cases where there is a question regarding paternity or legal parent, the matter must be referred to the District Attorney. [\[Refer to “Ineligible Noncitizen Parent,” page 23-1\]](#)

11.3.3 Surrogate Parenting

Surrogate parenting occurs when a woman agrees to be artificially inseminated with semen from a man not her husband, and to release the child so conceived to the man and wife after the child's birth.

There are various issues regarding surrogate parenting which have not yet been resolved in the courts. Until these issues have been settled decisions regarding CalWORKs eligibility have to be made on a case-by-case basis. The District Office CalWORKs liaison may contact the CalWORKs coordinator to help resolve eligibility problems.

11.3.4 Presence of a Stepparent or Unrelated Adult Male in the Home

Deprivation is not affected by the presence in the home of a stepparent or an unrelated adult male.

11.4 Termination of Deprivation [41-405]

When one basis for deprivation ceases, and the family remains in need, the EW will determine if any other basis of deprivation exists.

- | When the basis for deprivation ceases mid-period, the EW cannot take mid-period action based on changes in deprivation. Any change in eligibility or grant amount that results from the change in deprivation reported on the SAR7 will be effective the first day of the next SAR Payment Period.

11.4.1 Incapacity Ceases

When the incapacitated parent recovers and there is no other basis of deprivation, the family may receive aid through the current payment period. The EW must send an adequate and timely notice of action to discontinue CalWORKs at the end of the SAR Payment Period.

11.4.2 Unemployment Deprivation Ceases

When an absent parent returns to the home and is not unemployed or incapacitated, (no other basis of deprivation exists) the AU continues to be considered deprived of parental care through the current SAR Payment Period. The EW must send an adequate and timely notice of action to discontinue CalWORKs at the end of the current Payment Period.



Example:

The Payment Period is established as April/May/June/July/August & September (Cycle 4). A CalWORKs household with a mother and two children meet the deprivation requirement, due to their father being absent from the home. The father of the children returns to the home during April, is not disabled and is full-time employed. The household voluntarily reports the father's presence and his income in April. The children no longer meet the deprivation requirement. A "No Change" NOA is sent to the AU with the scratch budget, and no action to discontinue benefits is taken. When the household reports the father on the August SAR 7 that is submitted in September, the EW determines that the children no longer meet the deprivation requirement and the case is discontinued effective September 30.



Note:

An AU is NOT mandated to report mid-period when a new AU member has income in excess of the Income Reporting Threshold (IRT), if that person was not required to report income that was used for determining cash eligibility and grant amount. Even when the AU provides the EW with information that with the new member the total income would exceed the IRT for the current AU. The EW shall not discontinue the AU mid-period because of financial ineligibility.



Reminder:

Each change must be viewed separately and processed per SAR principles.

11.5 Parent is Deceased [41-420]

Deprivation exists if either parent is deceased. Acceptable evidence of the death of a parent is:

- A copy of the death certificate.
- An award letter from the Social Security Administration based on the death of a parent.
- A newspaper account of the parent's death.
- Other reliable documentation.

**Note:**

In the absence of a Death Certificate only the Social Services Program Manager shall determine if other verification is acceptable. The reason why a Death Certificate is not available and what is being used in its place must be documented in the **Maintain Case Comments** window of CalWIN.

Other Requirements:

- If both parents are deceased, the caretaker/relative must be a defined relative. [Refer to “AU Composition,” page 25-1] for the definition of caretaker/relative.]
- If the child is living with a relative/caretaker other than a parent and either parent is living, a referral for child support shall be made. [Refer to “Ineligible Noncitizen Parents,” page 23-1].
- The applicant/recipient must be instructed to apply for Social Security Survivor Benefits for the child(ren). CalWORKs Handbook [Refer to “Potentially Available Income [EAS 82-610, 44-103],” page 26-5].]
- The applicant/recipient must be instructed to apply for Veteran's Benefits and must complete a "Veterans Benefits Verification and Referral" (CW 5) if the child(ren) appear eligible for Veteran's Benefits [Refer to “Veteran's Dependents,” page 28-22].]

11.6 Physical or Mental Incapacity of a Parent [41-430]

11.6.1 Deprivation Due to Incapacity

Deprivation due to a physical or mental incapacity of a parent exists when the parent of an otherwise eligible child has a physical or mental illness, defect, or impairment that reduces substantially, or eliminates the parent's ability to support or care for the child for a period which is expected to last at least 30 days and which is supported by acceptable evidence. [Refer to “Determination of Incapacity [41-430.2],” page 11-5].]

If an applicant is denied in intake because the incapacity is not expected to last 30 days or more, and it is subsequently established that the incapacity did exceed the 30 days, and all other eligibility

requirements are met, the denial shall be rescinded and aid paid from the date that aid would have been paid had the application been approved.

Deprivation exists if the incapacity:

- Prevents the parent from working full-time:
 - At a job which he/she has customarily engaged.
 - On another job for which he/she is equipped by education, training or experience, or which can be learned by on-the-job training, OR
- Is the reason employers refuse to employ him/her for work the parent could do. (This includes behavioral disorders which interfere with the securing and maintaining of employment), OR
- Prevents the parent from accomplishing as much on a job as a regular employee, and is the reason he/she is paid on a reduced basis even though working full-time, OR
- Qualifies the parent and he/she is employed in a job which is rehabilitative, therapeutic or in a sheltered workshop not considered to be a full-time job, OR
- Reduces substantially or eliminates the parent's ability to care for the child.

11.6.2 Determination of Incapacity [41-430.2]

The determination that incapacity exists shall take into consideration the limited employment opportunities of handicapped individuals and be based upon the following acceptable evidence:

- A current award letter or by viewing the latest check from:
 - SSI/SSP.
 - Social Security (RSDI).



Note:

Be sure that the benefits listed above are based on disability and not on the age of the parent.

- Disability Insurance (DIB).
- Workman's Compensation.
- A DM-1 or DM-3 from a previously closed ATD case, providing the DM-3 was approved GROUP I DISABILITY (no review due date).

- An “Authorization to Release Medical Information” (CW 61) or other written statement from a licensed physician or certified psychologist, that provides information sufficient to substantiate the determination of incapacity and includes the following:
 - An onset date of the condition (this date is entered in CalWIN as the **Effective Begin** Date on the **Collect Disability/Medical Conditions Detail** window.)
 - A diagnosis of the parent's condition and explanation of the extent to which it prevents him/her from engaging in employment or why it reduces substantially, or eliminates the parent's ability to support or care for the child.
 - The expected duration of the condition, and date of the next scheduled examination or appointment.
 - The doctor's name, address and telephone number.

Where a written statement cannot be obtained without delay, for reasons beyond the control of the applicant, a verbal statement from the licensed physician or certified psychologist verifying incapacity as specified above may be accepted pending written verification up to a maximum of 60 days.

If obtained verbally, documentation must include the date verification was obtained, the name of the person who supplied the verification, and the name of the county person who obtained the verification.

11.6.3 Requesting Written Medical Verification

Aid may be established or continued for 30 days pending a medical verification.

The applicant/recipient should be informed that the physician should bill Medi-Cal for the cost of the physical examination connected with establishing incapacity. If Medi-Cal refuses to cover the cost of the examination or completion of the CW 61, the applicant/recipient is responsible for the cost.

30 Day Time FrameThe “Authorization to Release Medical Information” (CW 61) must be returned within the 30-day period, unless a verbal verification of incapacity has been obtained from the physician; then allow an additional 30 days. Document in the **Maintain Case Comments** window in CalWIN the date verbal verification was obtained, the name of the person who supplied verification and the name of the person who obtained the verification. **THE CASE IS TO BE HELD IN INTAKE UNTIL WRITTEN VERIFICATION IS RECEIVED.**

Not Received in 30 DaysIf written verification is not received by the 30th day or the 60th day, when verbal verification has been obtained, discontinue the case if no other form of deprivation exists, and/or the applicant/recipient must register with CWES or discontinue the individual from the case, for failure to register for work, whichever action is appropriate.

11.6.4 Review of Incapacity [1-430.3]

If the individual's condition is expected to last more than one year, a review of the incapacity must be done at the time of the annual redetermination (RD). If the individual's condition is expected to last less than one year, a review is to be completed at the time the condition is expected to end or at RD, whichever is later (not to exceed one year). If there is reason to believe there has been a change in the applicant/recipient's condition a review may be done earlier, if needed.

A review means a NEW medical verification must be OBTAINED within the month the condition is expected to end.

The medical statement verifies incapacity for deprivation and allows exemption from other requirements; therefore, if there is no current medical verification on file by the first of the month following the expiration date, there is no eligibility due to incapacity or exemption from other requirements.

11.6.5 Incapacity Lasting Longer Than 12 months

If the applicant/recipient has been incapacitated or is expected to be incapacitated 12 months or more, the individual MUST be referred for SSI using an SC 169, and the case flagged for 30-day follow-up. If the client has had a prior denial from SSA and his or her condition has changed or worsened refer the individual again.

11.7 Continued Absence of a Parent [41-450]

11.7.1 Definition of "Continued Absence" [41-450.1]

Continued absence exists when the natural parent is physically absent from the home and the nature of the absence results in an interruption or termination of the parent's functioning as a provider of maintenance, physical care or guidance for the child.

The reason for the absence or the length of time the parent has been absent is not the determining factor. The main issue is whether the absence means the parent cannot be counted on in planning for the present support or care of the child.



Note:

There is always absent parent deprivation in single parent adoptions.

A parent may contact or visit the child frequently but still will be considered absent if they are not living in the home and there has been an interruption or termination of parental responsibility as it existed prior to the absence.

“Continued absence” shall be considered to exist when there is joint custody and the child lives with each parent for alternating periods of time. [Refer to “Determining Caretaker Relative,” page 25-11] for a complete discussion of the caretaker relative determination.]

“Continued absence” shall be considered to exist in a two parent household when a parent who is a convicted offender is permitted to live at home while serving a court imposed sentence by performing unpaid public work or unpaid community service during the workday and there is no other deprivation. The parent who is the convicted offender shall be considered “absent” for deprivation purposes if there is no other deprivation available upon which to base aid. This parent cannot be considered a U-parent. This parent may be eligible to receive CalWORKs and may still be a caretaker relative.

**Note:**

The Public Service Program (PSP) at Elmwood is such a program. The client lives at home and reports to Elmwood each day during the work-week. Because the parent is prevented from working at a paid job, the family is deprived in the same manner as the family with a parent who is incarcerated.

However, if the client is in a jail program in which they live at home and work at a regular job during the week and only goes into the jail on weekends, the absence shall be considered temporary and shall not be considered “continued.” Some other deprivation must exist for there to be CalWORKs eligibility.

If the client stays at the jail nights and is released to work at a regular job during the day only, the client is an inmate of the institution, is absent from the house, is not eligible for aid and cannot be the caretaker relative.

11.7.2 Temporary Absence

Continued absence does NOT exist when one parent is physically absent from the home on a temporary basis. Examples are visits, trips or temporary assignments undertaken in connection with current or prospective employment. In such temporary absences, the family still plans for the support and care of the child together and there is no actual interruption of parental responsibility. [Refer to “Temporary Absence [EAS 82-812; 82-812.6],” page 25-14]

11.7.3 Circumstances That Meet the Definition of “Continued Absence” [41-450.2]

The physical absence of a parent from the home in conjunction with any one of the following circumstances shall be considered to meet the definition of “Continued Absence”:

- The parents are not married to each other and have not maintained a home together.
- The parent:

- Is not legally able to return to the home because of confinement in a penal or correctional institution;
- Has been deported; or
- Has voluntarily left the country because of the threat of, or the knowledge that he/she is subject to deportation.
- Cannot enter the country because he/she is not legally entitled to enter.
- A parent has filed, or retained legal counsel for the purpose of filing an action for dissolution of marriage, for a judgment of nullity, or for legal separation.
- The court has issued an injunction forbidding the parent to visit the spouse or child.
- The remaining parent has presented a signed, written statement that the other parent has left the family and that there is an interruption of parental responsibility within the definition of continued absence.
- Both parents are physically out of the home and their whereabouts are not known.

11.7.4 Less Obvious “Continued Absences”

Voluntary Placements

When both parents maintaining a home together voluntarily place their child with a relative or in a foster home, absent parent deprivation does not automatically exist.

If the child voluntarily leaves the home to live with relatives or with foster parents, absent parent deprivation does not automatically exist.

The separation of the child from the parents MUST BE ACCOMPANIED BY DEFINITE INTERRUPTION OF THE CARE AND SUPERVISION NORMALLY PROVIDED BY THE PARENTS. The child must, in fact, be deprived of parental guidance from his/her natural parents on a continuous basis.

Continued absence does not exist when the parents are temporarily absent from the home. Examples include: extended trips, vacations, temporary assignments undertaken in connection with employment.]

[Refer to “Family Reunification Program Overview,” page 41-1].]

Evaluation of Property

The personal property, real property and income of the absent parents shall be considered in determining eligibility and the grant amount, only to the extent that they are actually available to meet the needs of the child(ren).

11.7.5 Parent on Active Duty in Armed Forces [41-450.1]

If a parent is in the military, it is immaterial whether or not he/she was drafted or volunteered. What must be considered is whether the parent's absence from the home can be classified as "continued absence."

When the client provides appropriate evidence to establish that the other parent would be absent, **REGARDLESS OF THEIR ACTIVE DUTY IN THE MILITARY**, then continued absence shall be considered to exist.



Note:

It is no longer necessary to determine if the spouse can join the parent who is in the military. There must be a break in marital ties which occurred regardless of military service.

11.7.6 Evidence of "Continued Absence" [41-450.4]

If one parent is absent due to one of the circumstances the written statement of the applicant or recipient parent may be considered sufficient evidence of "continued absence" unless conflicting information is known to the county or reasonable doubt indicates further evidence is necessary. (The completed CW 2.1 is sufficient evidence.)

If conflicting information is known to the county or reasonable doubt indicates further evidence is necessary, the written statement of the applicant or recipient parent must be supported by at least one of the following:

- Additional evidence indicating "continued absence," which may include written statements of the absent parent or other persons with prior knowledge of the family relationship; or
- Evidence of the actions of the applicant/recipient or the absent parent that clearly indicates both the physical absence of the parent and interruption or termination in meeting parental responsibilities and the support, care and guidance of the child.

The actions of the applicant/recipient that clearly indicate both factors must be clearly documented in the **Maintain Case Comments** window of CalWIN.

11.7.7 Requirement to Cooperate with Child Support Regulations [43-105]

Child Support regulations require all applicants/recipients to cooperate fully in identifying and locating absent parents, establishing paternity, obtaining support payments and assigning accrued support rights. The Eligibility Worker must follow child support procedures whenever a CalWORKs AU child has an absent parent or when the parents are unmarried and paternity has never been established.

**Note:**

A "Referral to Local Child Support Agency (LCSA)" (CW 371) is not required for a parent who is "absent" for deprivation purposes but is a convicted offender actually living at home and reporting to the jail during work hours. A "Child/Spousal and Medical Support Notice and Agreement" (CW 2.1) must still be completed to establish deprivation and be scanned into the case file. The situation must be clearly documented in the **Maintain Case Comments** window in CalWIN.

