

14. Property - General

14.1 Property Limit [EAS 42-207.2 and 63-1101]

Effective June 1, 2020, the maximum allowable nonexempt property limit for personal and real property combined for both applicants and recipients is:

- \$15,000 for an AU with a member who is 60 years old or older, or disabled.
- \$10,000 for all other AUs.

[Refer to “Personal Property/Resources,” page 15-1]] and [Refer to “Real Property,” page 16-1]] for a complete discussion of the various types of property.

14.1.1 Applicant Requirement

Determine the value of a new applicant’s property as of the date of application. An AU whose property exceeds the limit on the date of the application must be denied unless that AU reduced their property to an amount below the CalWORKs property limit in reasonable time. The AU is property eligible for CalWORKs from the date its property is below the limit.



Example:

An AU applies for CalWORKs on March 3. The applicant is interviewed on March 10. At that time, the AU has property totaling \$10,200. No one in the AU is disabled or 60 years or older. The AU expects to pay \$300 in bills on March 15. This will reduce the total property to \$9,900, which is below the \$10,000 limit. The AU must verify the reduced value of the property. Since all other eligibility requirements are met, the AU is eligible for CalWORKs as of March 15.



Example:

An AU applies for CalWORKs on March 25 and is interviewed on April 3. The AU had property totaling \$11,500 on March 25, but after paying rent and other bills at the end of the month, has only \$9,500 left on April 3 (the day of the interview). The AU does not have anyone disabled or 60 years or older. Deny the March benefit and since all other eligibility requirements are met, approve as of April 1 (the first day the AU became eligible).

14.1.2 Recipient Requirement

Determine the value of a recipient’s property as of the first day of the month.

**Example:**

During the current SAR payment period, an AU receives a lump sum Social Security payment that results in excess property. If the AU's property is expected to be at or below the limit on the 1st day of the next SAR payment period, the AU remains CalWORKs eligible.

If the AU's property is expected to be over the limit on the 1st day of the next SAR payment period, CalWORKs must be discontinued effective the last day of the current SAR payment period and sent an adequate and timely NOA. If the AU reduces its property, to or below the limit, by the last day of the current SAR payment period, restore the case. If the AU reduces its property, to or below the limit, in next SAR payment period, have the AU reapply.

14.2 AU Determination of Property [EAS 42-205]

14.2.1 Members of the CalWORKs AU

The members of the CalWORKs AU are:

- The child(ren), and
- The natural or adoptive parents, and
- Eligible stepparents and needy caretaker relatives when applying for themselves.

Include the property of all the AU members in the property limit, unless the property is exempt.

14.2.2 Mandatory AU Members Who Are Excluded

Include the property of the following excluded persons and non-AU members in the property reserve, unless the property is exempt:

- Ineligible alien parents
- SSN disqualified AU members
- Unborn child's father (AU of 1)
- Spouse of an aided child
- MFG child
- Sanctioned person.

14.2.3 Non-AU Members

Do not count the property of the following non-AU members, unless the property is jointly owned with AU members:

- Excluded stepparents
- Senior parents.

14.2.4 SSI/SSP or CAPI Recipient

Do not count the property of SSI/SSP or Cash Assistance Program for Immigrants (CAPI) recipients.

14.3 Availability and Inaccessibility [EAS 42-201, 42-203]

14.3.1 Actually Available

Property, real or personal, is considered actually available and used in the eligibility determination:

IF the client...	THEN...
Has the use and control or possession of the property,	Ownership shall be presumed unless the client submits clear evidence to the contrary.
Has a legal interest in a liquidated property and has the legal ability to obtain the property and use it for support and maintenance,	The liquidated property must be considered actually available and counted towards the property limit.
States that the property is currently unavailable and can provide verification of this,	The property can be excluded from the property determination while the client is obtaining evidence concerning the availability of the property.

14.3.2 Owner of the Property

The owner of the property is the individual who has the legal title to, the right to, or the possession of the property. For the purposes of determining eligibility, unless there is evidence to prove otherwise, it is presumed that the person who “owns” the property has the right to possess, use, control, and dispose of the property.

Ownership may be with one individual, or it may be jointly owned.

14.3.3 Separate Property

Separate property is:

- Property acquired by the husband or wife prior to the marriage.
- Property separately acquired by gift or inheritance, after marriage.
- Property acquired during the marriage if purchased with funds which are the separate property of the owner, such as funds received from the sale of separate property or property received by gift or inheritance.

When one spouse is absent, the income of the absent spouse is his/her separate income in the month of receipt, and separate property if retained past the month of receipt. For purposes of this paragraph, the spouses are separated if:

- They have obtained an interlocutory or final judgment of dissolution,
- They are legally separated, or
- They are informally separated (living separate and apart from each other and consider their marital relationship to have ended).

14.3.4 Property Owned Jointly With Spouse

The client is presumed to have available his/her prorated share of the property. This presumption can only be overturned by:

- A FILED divorce which bars distribution of the property until the court decision.
- A court order which specifies the distribution of jointly held property other than in equal shares.
- Some other legal barrier which prevents the sale of the property; e.g., a lawsuit disputing the legal ownership of the property in question, or bankruptcy proceedings.

14.3.5 Property Owned Jointly With Others (Excluding Spouse)

Jointly owned property is considered available in its entirety to the CalWORKs AU, unless the AU can show that the property is inaccessible.

If the AU can show that it has access to only a portion of the property, only the value of that portion of the property is considered for CalWORKs eligibility.

The property is considered totally inaccessible to the AU if the property cannot practically be subdivided and the AU's access to the value of the property is dependent on the agreement of a joint owner who refuses to comply.

Assertions that the property is NOT available must be established on an individual basis. Supporting documentation might include:

- Legal documentation such as a deed restricting unilateral sale or a will restricting sale unless the principals agree.
- An oral contract between the principals. Documentation must include statements from all the principals that such an oral contract exists.

14.3.6 Community Property

Community property, real or personal, is property acquired by the husband or wife during the marriage, unless acquired as separate property. [Refer to "Separate Property," page 14-4.] This includes:

- Property purchased with community funds, which include earnings of the spouses while married and living together,
- Income derived from community property, and
- Funds received from the sale of community property.

Community property generally includes property purchased on the personal credit of either spouse. If property is purchased with funds which cannot be identified as separate property, such property is presumed to be community property. However, this presumption can be rebutted, for the entire property or a portion thereof.

Each spouse is presumed to own a one-half interest in community property, regardless of which spouse holds the property. All property held in the name of the spouse of a married person is presumed to be community property, unless evidence establishes it to be separate property.



Exception:

Burial trusts and interment plots are considered the separate property of the spouse who is the beneficiary or user.

When questions of community property laws arise, clarification should be cleared through the EW Supervisor, District Office Manager or the CalWORKs Program Coordinator, in that order.

14.3.7 Child Living With Mother and Stepfather

When a child lives with his/her mother and stepfather, each spouse is presumed to own a one-half interest in property held by either spouse, unless this presumption is refuted by evidence which establishes it to be the separate property of one spouse.

14.3.8 Uniform Gift to Minors

Funds that a relative has set aside for a child may be classified as “Uniform Gift to Minors”. The child’s bank account is registered using the child’s Social Security Number. This will generally show another individual as the custodian. The relative does not pay taxes on the proceeds of these monies, so they are sheltered for the taxpayer. These are generally not trust funds, but separate bank accounts which may or may not be available to the child, dependent upon the statement of the person establishing the account. If the individual who established the account is a member of the AU, then the account is considered in the property limit. These accounts will also be labeled as “Uniform Transfer...”, “Uniform Gift...” or another similar designation. [Refer to “UNIFORM GIFT TO MINORS,” page 15-6]] and [Refer to “UNIFORM GIFT TO MINORS,” page 14-9]] for more information.



Example:

A child and her mother are in the AU. The grandmother sets up a bank account for the child using the child’s Social Security Number and provides a statement that the funds are not available to the child or the child’s mother. This account is exempt. However, if the mother leaves the home and the child goes to live with the grandmother caretaker, who is needy and applies for CalWORKs for herself, the bank account is then included in the property limit. If the grandmother was non-needy, then don’t count the value of the account.

14.3.9 Multiple Owners of Motor Vehicles

When a vehicle registration lists multiple owners, the EW must consider availability as well as legal ownership. Below are two situations.

Situation #1:

The car registration lists the owners as:

- James Brown OR Kathy Brown
- James Brown
Kathy Brown
- James Brown/Kathy Brown

The presumption is that both parties have equal rights to the above vehicle. However, jointly owned property is considered available in its entirety to the AU. This decision can be overturned by other supporting evidence.

Kathy Brown applies for CalWORKs. The above vehicle is reported but Kathy states that her husband, who has been gone for over a year took the car with him. She has had no contact with him and does not have access to this vehicle. The client must provide verification (such as property settlement from a divorce) or a "General Affidavit" (CSF 2). The vehicle is not considered in her property determination.

Situation #2:

The car registration lists the owners as:

James Brown, Kathy Brown AND Pat Smith

Pat Smith applies for CalWORKs and her name is discovered on a car registration as shown above. Pat states that her name was included for insurance purposes only and that she does not have access to the car. She provides similar statements from James and Kathy Brown. The above vehicle is not counted in her property limit.

14.3.10 Availability of Motor Vehicles

Availability Example #1:

The AU which consists of a mother and her 13 year old child. The AU owns 2 cars. The mother drives one and her married daughter in Gilroy uses the other car. The car the mother drives is valued at \$18,500. There are no encumbrances. Exclude \$25,000, leaving \$0 to be counted toward the property limit (the equity value is exempt). The second car is legally hers and she has the power to sell it, even though her daughter currently has possession of it. The second car which she owns outright is valued at \$15,000. Exclude \$25,000, leaving \$0 to be counted toward the property limit (the equity value is exempt).



Note:

Even though the registration is in the daughter's name, the mother is the legal owner. The value is included in the mother's property determination.

Availability Example #2:

The AU has a car with a FMV of \$25,300. The balanced owed on the car is \$3200. The car registration has her father's name on it; however, in the interview the EW discovers that the client uses the car and makes the payments. If she needed to, she could sell the car because her father considers the car hers and would sign the pink slip. The client explains that the father's name was listed as legal owner in

order to get the loan on the car. The car is considered available property. Exclude \$25,000, leaving \$0 to be counted toward the property limit (the equity value is exempt).

Availability Example #3:

The client owns a car worth \$30,000 which her estranged husband has taken and refused to return. The car is part of the property in dispute in a divorce action. This information is on the SAWS 2. The client is willing to get a statement from her attorney as evidence that the car is not available. The car can be excluded from the property determination until the letter is provided. The information in the attorney's letter must be evaluated as to availability of the car and appropriate action taken.

14.4 Inaccessible Property

Exempt the cash value of personal property which is inaccessible to the AU. This includes, but is not limited to:

- Irrevocable trust funds. [[Refer to "IRREVOCABLE/INACCESSIBLE TRUST FUNDS," page 15-3.](#)]
- Security deposits on rental property or utilities.
- Property in probate.
- Property unlikely to produce significant funds or return if sold. (This exemption does not apply to financial instruments such as stocks, bonds, or legally binding promissory notes.) [[Refer to "Property Unlikely to Produce Significant Funds or Returns," page 14-9.](#)]
- A vehicle (whether LICENSED or UNLICENSED) which has an equity value of \$1500 or less. [[Refer to "Equity Value," page 15-15.](#)]
- A vehicle which meets the following conditions:
 - The vehicle is owned jointly with a person who does not live in the home, AND
 - The AU does not have possession or use of the vehicle, AND
 - The AU does not have the ability to sell the vehicle without the agreement of the joint owner who refuses to comply.
- A licensed vehicle which the AU is LEGALLY prohibited from selling due to court actions such as:
 - Probate,
 - Lawsuit,
 - Divorce proceedings, or

- Bankruptcy proceedings.

14.4.1 Verification

The following verification is required for inaccessible property:

- Cash value
- Inaccessibility of the property.

14.4.2 Property Unlikely to Produce Significant Funds or Returns

Exempt property, which if sold or otherwise disposed of, would be unlikely to produce “any significant amount of funds” or “significant return” for the support of the AU except for financial instruments (stocks, bonds, legally binding promissory notes, etc.).

“Any significant amount of funds” is over \$1500.

“Significant return” is any return (based on the Au's ownership interest in the property) which is over \$1500 after subtracting the estimated cost of the sale or disposition.

14.5 Verifications

Verify all personal or real property, whether excluded or countable property, prior to payment.

PROPERTY	ACCEPTABLE VERIFICATIONS
SAVINGS, CHECKING, TIME CERTIFICATE AND CREDIT UNION ACCOUNTS	<ul style="list-style-type: none"> • Bank statements, or ATM receipt • “Release of Information - Financial Institution” (CW 60) if verification is questionable or not supplied by client.
STOCKS, BONDS, COMMODITIES	<ul style="list-style-type: none"> • Purchase contract, stock certificate, U.S. Bonds • Current newspaper quote • Stockbroker's current estimate and document answer.
TRUST DEEDS	<ul style="list-style-type: none"> • View original papers. Get current statement from trustor (manager of fund).
NONRECURRING LUMP SUMS	<ul style="list-style-type: none"> • Award Letter - Actual payment check. Inquiry to original source of payment.
INACCESSIBLE PROPERTY	<ul style="list-style-type: none"> • Verify cash value and inaccessibility of the property.
UNIFORM GIFT TO MINORS	<ul style="list-style-type: none"> • Secure a statement from the person who opened the account concerning the funds and the availability of the funds to meet the child's needs.
VEHICLE	<ul style="list-style-type: none"> • Copy of car registration. • Car appraisal by dealers, adjustors or property appraisers.

PROPERTY	ACCEPTABLE VERIFICATIONS
REAL PROPERTY	<ul style="list-style-type: none"> • Copy of current county tax statement. • Copy of documents showing encumbrances, such as payment books, payment receipts, notes, mortgages, etc. • Receipts for expenses on rental property.

14.6 Conversion of Property [EAS 42-203.10, 42-219]

A conversion of property occurs when a recipient changes an existing resource from one form to another (i.e., sells a car and puts the monies received in a bank account).

Real and/or personal property may be acquired or converted to other forms by a recipient without affecting the AUs eligibility, as long as the total value of the AU’s property does not exceed the AU’s property limit.

Payments which include compensation for property which was lost, stolen, damaged or destroyed is evaluated as to the effect on income and property. [\[Refer to “Compensation for Converted Property \[EAS 44-105\],” page 27-1\]](#) for more information.]

14.7 Transfer of Property [EAS 42-221]

A Period of Ineligibility (POI) results when a recipient has a nonexcluded resource that would cause the AU to exceed the property limit for a month and then disposes of that property for less than its fair market value.

The following transfers do not affect eligibility:

- Property transferred between members of the same AU.
- Property sold or traded at or near fair market value. (The EW must use their best judgement when making the determination of whether the value received is "near" market value. This may be completed in consultation with the EW Supervisor, if necessary.)
- Property exempt for CalWORKs eligibility.



Note:

The transfer of property rule does not affect applicants.

14.7.1 Period of Ineligibility

The POI is computed based on the amount the property limit would have been exceeded, if the property had been transferred at its fair market value. The length of the period of ineligibility is calculated by taking the following steps:

Step	Action
1.	Establish the fair market value of the property transferred.
2.	Add all other countable property.
3.	Subtract the amount of the AU's property limit.
4.	Subtract the amount actually received for the property from the fair market value determined in Step #1.
5.	Compare the amount determined in Step #3 with the amount determined in Step #4 and determine the lesser of the two amounts.
6.	Divide the lesser of the two amounts from Step #5 by MBSAC for the AU.
7.	Round the resulting amount down to the nearest whole number to determine the number of months in the POI.



Example:

While on aid, a recipient AU of two persons inherited a piece of land with fair market value of \$20,500. The value of this inherited property, when added to the other countable property of the AU (\$1,500) caused the AU to exceed the property limit of \$10,000. The AU sells the land for \$6,500 which is \$14,000 less than the fair market value. The POI is determined below:

Step 1	Fair market value of the transferred property	\$20,500
Step 2	Other countable property	1,500

	Equals	\$22,000
Step 3	Subtract the AU's property limit	10,000

	Equals the amount in excess of the property limit.	\$12,000
Step 4	Fair market value of the piece of land	\$20,500
	Subtract the amount actually received by the AU for the land	6,500
	Equals the difference between the fair market value and the amount actually received.	\$14,000
Step 5	Determine the lesser of the amounts from Step 3 and Step 4	\$12,000
Step 6	Divide the amount in Step 5 by MBSAC for the AU (\$12,000 divided by \$1,216)	9.868
Step 7	Round down to determine the Period of Ineligibility (POI)	9

The period of ineligibility for this AU is 9 months.

14.7.2 Applying the POI for Transfer of Property

If...	Then...
A POI is determined,	<ul style="list-style-type: none"> • Cash aid must be discontinued, and • The POI begins the first month of the next SAR Payment Period following the transfer and will continue for the determined number of months of ineligibility. <p>Note: Any aid received by the AU during the ineligible months of the period is an overpayment.</p>
The transfer is discovered too late to discontinue for the first month of the SAR Payment Period,	The POI begins the first of a month within that SAR Payment Period after a timely and adequate NOA is given to the client. Any cash aid received by the AU during the ineligible months of the current period is an overpayment.
The transfer is made in the first or second month of aid,	Any resulting POI begins the first month of the next SAR Payment Period and will continue for the determined number of months.



Note:

[Refer to “Transfer of Income [EAS 42-221],” page 26-9] for the rules on transfer of income.]

