

CalWORKs Eligibility Handbook	Child Support Payments 52-44
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52-44 Child Support Payments

There are different kinds of child support payments that a client might receive. Each is treated differently.

I. Direct Payments

Sometimes when a client applies for cash aid, they may be receiving child support payments directly from an absent parent. Or, a client in an ongoing case may start receiving payments directly from an absent parent. Child Support must be notified of the direct payment situation on the CW 371.

- A. In order to be eligible for cash aid, the client agrees to assign legal rights to any child support to the Local Child Support Agency (LCSA) and to cooperate with the child support enforcement process, which includes turning over any child support that might be received directly. Eventually, arrangements can be made so that the absent parent's payments are paid to Child Support, but, until those arrangements are in place, the client must cease retaining any direct payments and turn them over to Child Support.
- B. Any direct payments that are retained by the client, in the same months that cash aid is issued, must be budgeted as income for cash aid, minus the appropriate income disregard.
- C. If a client continues to retain the direct payments, without turning them over to Child Support, for two consecutive months, it is considered "non-cooperation" with the child support enforcement, and a penalty should be imposed.

II. Disregard Payments from Child Support

Since the first up to \$100 (for a family with one child) or up to \$200 (for a family with two or more children) of current child support paid for an AU is disregarded and exempt as income (see Section 53-2 Excluded or Exempt Income), when Child Support collects the child support on behalf of the AU, it issues a payment for the disregarded amount to the AU in the month following the month of collection.

III. Regular Pass-Ons from Child Support

A "Pass-on" is issued when the total child support collected by Child Support for a month, minus the disregard, exceeds the total cash aid paid for the same month. A payment is produced in order to "pass-on" the excess to the client. This is done in the same system process which creates the disregard payment described in Part II above.

- A. Unlike Disregards, these Pass-ons are NOT exempt as income for cash aid. They should be budgeted retrospectively.
- B. Like Disregards, Pass-ons are not exempt as income for CalFresh.
- C. Whenever a Pass-on is issued, the case must be reviewed to determine if there is continuing eligibility. The recipient income test should include the child support that is being collected monthly. A Pass-on could mean that for only one month there was excess income, but if it is anticipated that the situation will continue, then the case should be discontinued. If a Pass-on is issued for two months or more, it is a good indication that income eligibility has been lost. If the discontinuance is due to receipt of the child support collection itself, the client is eligible for special Post-active Medi-Cal Type 54.

IV. MFG Pass-ons from Child Support *NOTE: The MFG rule has been repealed and ended 1/1/17. Cases with MFG children are required to cooperate with Child Support Services, except for AU's designated aid codes K1 and 3F.*

Another type of Pass-on is for child support which is collected by Child Support for a child subject to the Maximum Family Grant (MFG) rule. Any child support for MFG children including these Pass-ons are exempt as income when determining eligibility for cash aid and computing the grant. However, they are countable under Food Stamp regulations. Note that the child support itself must have been collected during a month in which the AU received FS.

IV. Child Support Payments for Stepsibling or Half-sibling

Under new rules established by Senate Bill (SB) 380 (effective 11/1/2018,) CalWORKs applicants and recipients have the option to exclude the needs of stepsiblings and half-siblings from consideration in the determination of the Maximum Aid Payment (MAP) for the AU in order to keep 100 percent of child support payments made on behalf of that child.

Parents/caretakers have the option to exclude an eligible step/half-sibling's needs from the AU's MAP determination at application, SAR 7, or RE.

A. Criteria:

For the purpose of this rule, "stepsibling" or "half-sibling" means a child who meets all of the following conditions:

- They live with at least one eligible child.
- They are a child for whom child support payments are received.
- The monthly child support payment received for that child is greater than the cash aid amount that child would receive (using the Child MAP); and
- The parent/caretaker relative has requested in writing that the child not be included in the number of needy persons used to calculate the MAP.

When all criteria are met and the child is excluded under SB 380, the child's needs (not income and resources) are considered for the Minimum Basic Standards of Adequate

Care (MBSAC) but excluded from consideration when determining the AU's MAP amount.

B. Informing

The CW 52 CalWORKs Child Support Instead of Cash Grant Option / Child Support Payment Option Form has two purposes:

- Inform applicants/recipients of the option to exclude the needs of a step/half-sibling of an eligible child in the AU who lives in the same home.
- Allow parents/caretaker relatives to make a written request to exclude a step/half-sibling under SB 380 in order to receive full child support payments.

The CW 52 is provided at application, RE, and any time a client requests the form or requests to exclude a child's needs under the child support in lieu of cash grant option (SB 380).

C. Requesting Exclusion

The request to exclude a step/half-sibling's needs from the AU's MAP determination must be made by the parent/caretaker relative in writing, unless the parent/caretaker has a disability that prevents them from submitting the request in writing. Applicants/recipients will use the CW 52 to submit their written request.

D. Child Support Verification

SB 380 requires that the monthly child support payment received on behalf of a step/half-sibling exceeds the child's CalWORKs cash aid amount (Child MAP). Proof of the amount is required to determine SB 380 eligibility. Applicants/recipients are responsible for providing this proof, which could (but is not limited to) the following:

- An allocated (per child) court order for child support, if one exists
 - Sometimes the child support order will appear to be clear on the amount of child support awarded for each child named in the court order. Other times an order may look unallocated when it actually does provide specific amounts of monthly child support for each child. The court order and any attachments should be carefully reviewed.
 - If the client does not have their court order or any additional attachments that may clarify the information, the CWD can reach out to the LCSA to obtain the information by phone (while the client is in the office), through email, or by providing a copy to the client.
 - Information provided by the LCSA by phone must be documented in the case record (details of the conversation; amount of child support received; and name, position/title, contact information, and office/location of the LCSA providing the information).
- Copies of checks received from the non-custodial parent

- A written statement signed by the non-custodial parent
- Monthly statements of child support sent by the LCSA
- A sworn affidavit in the absence of any of the above documents

Child support orders are not required to exclude a child under SB 380; however, because these families are required to cooperate with child support assignment and cooperation requirements (unless good cause exists), CWDs must refer the applicants/recipients to the LCSA for child support services.

Regardless of how the child support is verified, it must reflect that the child support amount exceeds the grant the child receives or would receive.

E. Child MAP

Child MAP is the figure used to determine if the monthly child support received by a child exceeds the CW grant amount the child receives (or would receive if approved at application).

The Child MAP is determined using a methodology based on the MAP for the AU size with the child included *minus* the MAP for the AU without the child *plus* the amount of the child support disregard:

$$\text{MAP for AU} - \text{MAP for AU Without the Child} + \$200 \text{ Disregard}$$

If the monthly child support received is greater than this amount, the child may be excluded.

The methodology is slightly different for a second/subsequent child in the same AU (the child support disregard is only considered in the Child MAP calculation for the 1st child).

Child MAP charts are provided by CDSS for use in determining eligibility for SB 380 and updated based on changes to the CW MAP and child support disregard.

F. Choosing Option to Exclude

Step/half-siblings whose needs are excluded from the MAP determination are considered part of the AU and remain otherwise eligible for other programs and services (i.e. CalFresh, Medi-Cal, Child Care, Special Needs, Temporary Shelter Assistance, etc.), if all other eligibility conditions are met.

Additionally:

- Any parent/caretaker relative who opts to exclude a step/half-sibling from the AU's MAP for purposes of receiving child support would continue to receive cash aid for all other eligible members in the AU.
- Any child support payments received on behalf of the step/half-sibling after their needs have been excluded from consideration (when determining the AU's MAP)

shall not be treated as income when determining CalWORKs eligibility or grant amounts.

- K1/3F families are eligible to exclude a step/half-sibling from the AU's MAP determination under SB 380.

All required verifications should still be gathered at application as if the step/half-sibling were receiving cash aid. This helps to ensure that if a mid-period request is later made to have the child's needs considered in the MAP determination, the 10-day timeframe for this action can be met.

Required documents are:

- Birth certificate
 - Social Security card or similar verification from SSA
 - Medical immunization records
 - Any additional documents providing verification
- CW eligibility determination for the AU should not be delayed or denied while gathering verification for children excluded under SB 380.
- Use current verification gathering timeframes for new CW applicants requesting to have a step/half-sibling's needs excluded from the MAP determination per SB 380. Current recipients should have verifications already on file for their aided children.

G. Income and Resources of Children Excluded Under SB 380

Income and resources of children whose needs are excluded from the MAP determination will not be considered for the purposes of determining CalWORKs eligibility and the grant amount for the remaining AU members.

Children Turning 18 Years Old

When a child whose needs are excluded from determining the AU's MAP turns 18 years, and is either not attending school or not expected to graduate before their 19th birthday and is being discontinued from the CalWORKs case due to age limits for eligible children, any child support arrearages received by the parent/caretaker relative on behalf of that child are considered unearned income to the AU. The 18-year-old is considered an adult for the purposes of CalWORKs eligibility and the child support arrearages are paid to the parent/caretaker relative.

If the 18-year-old is enrolled in school and expected to graduate by their 19th birthday, they must continue to be considered a child for the purposes of CalWORKs until they graduate or reach their 19th birthday, whichever comes first, and the 18-year-old's income would not count as long as they remain a CalWORKs child.

Social Security Disability Insurance Payments

Other than SSI/SSP, the most common type of income received by children is SSA/SSDI from a parent.

Example 1: A step/half-sibling is receiving SSA Disability from the aided custodial parent and is also receiving child support from the absent parent.

- a. If the step/half-sibling is receiving child support that exceeds the CalWORKs grant amount, and if the parent/caretaker relative requests it in writing, the step/half-sibling's needs will not be considered in the MAP and 100% of the child support payments will be passed through to the parent/caretaker relative in the AU.
 - When a child's needs are excluded from the MAP determination, their income is also excluded. Any income of the child is considered to be intended for the care and support of that child and not for the use of other members of the family.

Example 2: The step/half-sibling is receiving SSA Disability due to the absent parent's disability, which is credited as child support by Child Support Services (CSS).

- a. The SSA Disability received from the non-custodial parent (NCP) is passed on to the family and is treated by CSS as child support, the SSA Disability received from the NCP would also be treated as child support for the purposes of the total amount of child support received.
 - If a step/half-sibling's needs have been removed from the family's MAP determination per SB 380, the SSA Disability would, for the purposes of income, also be excluded.

If the step/half-sibling receives both SSA Disability and child support, both sources would count towards the total child support amount received. If these payments, either separately or combined, exceed the CalWORKs grant amount for the child, the child would also be eligible to participate.

H. Mid-Period Reporting

If the step/half-sibling is not excluded from the MAP determination at application, the designation of whether a child is an excluded step/half-sibling shall only be reevaluated during annual redetermination and/or the processing of the semi-annual report, **except** when the parent or caretaker relative voluntarily reports mid-period that the child support payment or payments have decreased or ended.

The request for re-evaluation of the designation must come from the parent/caretaker relative.

If the parent/caretaker relative requests to add a previously excluded step/half-sibling's needs back into the MAP determination mid-period due to a loss or decrease of child support income, the step/half-sibling's needs must be considered in determining the AU's MAP, and the AU's grant must be increased within 10 days after verification of the change in income is received.

I. Mandatory Inclusion Rules

Once a parent/caretaker relative has chosen to exclude a child's needs when determining the AU's MAP amount, mandatory inclusion rules no longer apply to that child and the child's needs can only be added back to the AU's MAP determination at the following times:

- When Semi-Annual Report (SAR 7) is due.
- When AU's Annual Redetermination is due or.
- When the parent or caretaker relative voluntarily reports mid-period that the child support payment/s have decreased or ended, and the parent/caretaker relative requests the child's needs be reconsidered in determining the MAP.

The request to add the excluded child's needs back to the MAP determination can be made on the SAR 7, the SAWS 2 Plus, AR 3, SAR 3, a written statement or orally/verbally by the parent/caretaker relative.

J. CalFresh and Medi-Cal

SB 380 does not change eligibility standards for CalFresh. Child support payments received on behalf of an eligible household member are treated as unearned income for purposes of determining CalFresh eligibility and benefit amounts.

Although the needs of a SB 380 child are not included in the AU's MAP determination, the child is included in the AU for all other purposes and considered "CalWORKs-eligible". SB 380 children will remain eligible for cash-linked Medi-Cal if otherwise eligible, until the child leaves the AU or the AU is discontinued from CalWORKs.

K. Choosing Option Not to Exclude

Applicants and recipients who do not opt to exclude step/half-siblings from the AU's MAP would continue to receive the cash aid for the step/half-siblings and appropriate pass-through payment. Child support payments would be assigned to the county according to current policy.

The income of the step/half-sibling of the eligible child would continue to be considered available and included in the number of needy persons used to calculate the AU's MAP.

References:

Assembly Bill (AB) 79; Senate Bill (SB) 380

WIC 11008.14, 11265.3, 11265.47, 11450.17

Family Code (FAM) 17504

EAS 82-500

ACL 18-82; 20-109; 20-115; 20-115E; 22-60; 23-74