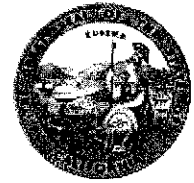


State of California—Health and Human Services Agency
Department of Health Services



GRAY DAVIS
Governor

DIANA M. BONTÁ, R.N., Dr. P.H.
Director

June 28, 2002

TO: All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons
All County Health Executives
All County Mental Health Directors

Letter No.: 02-38

QUESTIONS AND ANSWERS ABOUT THE AGED AND DISABLED FEDERAL
POVERTY LEVEL (A&D FPL) PROGRAM

See All County Welfare Directors Letters for background and other important information: 00-57, 00-68, 01-18, 02-22, and 02-24.

1. How are the income limits for the A&D FPL program determined?

Usually in March and effective in April, the new FPLs for that year are issued. The income limits are determined by using one hundred percent of the FPL for either an individual or couple, plus a \$230 income disregard for an individual or \$310 for a couple. We do not count the yearly Title II Social Security Cost of Living Adjustments that are effective in January until the new FPL income limits are out in April. Also, the A&D FPL income limits cannot be less than the Supplementary Security Income/State Supplementary Program levels for an individual or a couple.

2. Can we still use health care premiums as a deduction for the A&D FPL program?

Yes, use all medically needy deductions with the exception of the In-Home Supportive Services deduction for the A&D FPL program.

3. Is the A&D FPL program a Public Assistance (PA) program?

No, the A&D FPL program is not a PA program.

4. For the A&D FPL program are 1931(b) individuals considered other PA?

For purposes of the A&D FPL program, 1931(b) individuals are not considered other PA.



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(916) 657-2941

Internet Address: www.dhs.ca.gov

5. Can a Medi-Cal beneficiary choose to pay their own Medicare part B once Buy-In starts, so that they can become eligible for the A&D FPL program?

No, currently the Department of Health Services (Department) is participating in a Medicare Buy-In agreement with the Centers for Medicaid and Medicare Services. The Buy-In Agreement requires the Department to pay the Medicare Part B premium for all cash grant and medical assistance only (MAO) beneficiaries. The A&D FPL program is MAO.

6. What is policy regarding the A&D FPL cases for Substantial Gainful Activity (SGA)?

The Department has verified that there are no SGA exemptions for the A&D FPL program and SGA must be considered. (See enclosure.)

7. What if a couple might qualify for the A&D FPL program, what options does a County have?

If the couple is eligible, they both will be on the A&D FPL program. But, if they both cannot qualify as a couple for the A&D FPL program, the couple may apply for one or the other if one of them can qualify this way. The one that chooses not to be in the A&D FPL program may just choose not to be on Medi-Cal or they may qualify through the Medically-Needy program with a share of cost. It is possible for a couple to be in two different programs.

If you have any questions concerning this letter, please contact Mr. Craig Yagi of my staff at (916) 657-1182.

Sincerely,

RICHARD BRANTINGHAM, Acting Chief
Medi-Cal Eligibility Branch

Enclosure

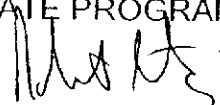
DEPARTMENT OF SOCIAL SERVICES

1000 G Street, Suite 500, Sacramento CA 95814



May 8, 2002

TO: STATE PROGRAMS BRANCH CHIEFS

FROM: 
ROBERT L. STAVIS, Chief
Central Support Services Branch
Disability and Adult Programs Division**SUBJECT: SUBSTANTIAL GAINFUL ACTIVITY****SPIN 02-O-21****SECTION II. A. 1**

Line Effective Date: Upon Receipt

ACTION NOTE: This SPIN issuance replaces SPIN 01-O-24 dated 11/27/01.

SUMMARY: This SPIN removes prior policy regarding Aged and Disabled Federal Poverty Level (A&D FPL) cases being exempt from substantial gainful activity (SGA) evaluations. Department of Health Services has verified that there are no SGA exemptions for the A&D FPL program and SGA must be considered. If State Programs becomes aware of any work activity on an A&D FPL case, the procedures outlined in this SPIN will apply.

The procedures in this SPIN do not apply to cases where an applicant is alleging to be blind, is a current Medically Needy (MN) recipient (e.g., RCR cases on individuals receiving MN benefits) or cases identified as applicants under the 250% Working Disabled. If an SGA evaluation was not done by the CWD because the applicant alleged blindness and State Programs (SP) finds the applicant is disabled but *not* blind, the County Welfare Department (CWD) should be alerted, on the DAPD 221R, to the need for an SGA evaluation prior to instating benefits.

The CWD is responsible for determining whether work activity is SGA. The CWD must complete an SGA evaluation (MC 272) whenever an applicant is currently working and has earned income in excess of the SGA amount per month. If the CWD determines the applicant is performing SGA, the claim will be denied by the CWD. If the CWD determines an applicant is not performing SGA or the applicant is being evaluated under the 250% Working Disabled, a full packet must be forwarded to SP for a disability

determination. In cases with work activity issues sent to SP, the CWD should include either an MC 272 or a comment in the County Worker Comments section of the MC 221, indicating earnings were evaluated and it was determined the applicant is not engaging in SGA. If the applicant is being evaluated under the 250% Working Disabled, the case file should be clearly identified by the CWD.

If after receipt of a case, SP becomes aware of work activity, and no SGA determination is in file, the DEA should return the case to the county unless it is clear that the work activity is not SGA.

- If there is no SGA determination in file, return the case to the CWD using no determination basis code Z56, requesting an SGA evaluation. The CWD is required to complete an SGA determination if the applicant is working and earning more than the SGA amount per month.
- The SGA levels have been set for the following periods of time:

<u>TIME PERIOD</u>	<u>SGA AMOUNT PER MONTH</u>
January 1980 to December 1989	\$300
January 1990 to June 1999	\$500
July 1999 to December 2000	\$700
January 2001 to December 2001	\$740
Effective January 2002	\$780

If earnings are clearly at or below that level, SP should continue development of the case. However, if the level of earnings is unknown or unclear, State Programs staff need not contact the applicant or other parties to determine the earnings level. These cases should be returned to the CWD if there is no SGA determination in file. The above SGA amounts can also be used when determining if the applicant's past work constitutes SGA in vocational evaluations.

- If the CWD completed an SGA determination showing work is SGA, and there is no possibility of a closed period (see the next bullet paragraph), return the case to the CWD, using no determination basis code Z56, unless the applicant is applying under the 250% Working Disabled Program. Summarize, on a Report of Contact, the status of the medical/vocational development in case the applicant stops working or is determined to be eligible for evaluation under the 250% Working Disabled program and the file is subsequently returned to SP for a determination.
- If there is a 12-month period from the earliest possible onset date to the date the applicant returned to work at an SGA level, that period must be evaluated for a **closed period** of disability (see CLOSED PERIODS OF DISABILITY SPIN in Section II. A. 2). In these cases, include the CWD's SGA determination in the file

(MC 272 or comments on MC 221). If a closed period of disability is established, the ending date should be established as of the date work activity became SGA or the medical/vocational assessment determined disability ended, whichever is earlier.

- When returning a case for SGA determination, note on the MC221R, item #16, that the case should be returned to State Programs for a disability determination if the applicant is not earning at SGA level, may be entitled to a closed period, or may be eligible under the 250% Working Disabled program.

If you have any questions, please contact Lois Wood at 8-473-8661 or (916) 323-8661.

c: Joseph Carlin
State Programs OSBCs
SPQA Staff
Marlene Ratner, DHS
Lawrence Geller, SH