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FEDERAL ELIGIBILITY  
 DETERMINATION

SECTION: 45-202  
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FEDERAL ELIGIBILITY DETERMINATION  
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## I. GENERAL

Prior to implementation of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 and state welfare reform:

- Federal eligibility for Foster Care could be established if a child was in receipt of AFDC, or would have been eligible for Aid to Families with Dependent Children (AFDC) if an application had been made, in the month of petition; and
- Foster Care eligibility requirements were largely based on AFDC rules

Due to welfare reform legislation, Foster Care children removed on or after July 1, 1997, must meet AFDC Program requirements which were in effect on July 16, 1996. In addition, the AFDC waivers which were in effect on that date must not be applied.

## A. Court Order Findings (3 Findings) EAS 45-202.6

The following Court Order Findings must be verified and appropriately documented in the case file by the EW prior to the approval of, or continuance of AFDC-FC benefits:

- Continuance in the home is contrary to the welfare of the minor
- Responsibility for placement and care is vested with the county, and
- Reasonable efforts to prevent or eliminate the need for removal

An additional finding that the County made “reasonable efforts to finalize the permanency plan” must be verified within 12 months from the date the child entered foster care. If this finding is not made timely, the child ceases to be eligible for Federal AFDC-FC at the end of the 12<sup>th</sup> month after he or she entered care and remains ineligible until the finding is made.

## 1. Contrary to the Welfare Finding

The EW must verify that the court made a finding that ‘continuance in the home is contrary to the welfare of the minor’ or a finding to that effect. The EW must also ensure the first court order document is scanned into the case. Other acceptable examples include: ‘there is substantial danger to the welfare of the minor without removing the minor’, or ‘the welfare of the minor requires that custody be taken from the parents’.

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For Federal AFDC-FC, this court finding must be in the first court order, which removes the child from his or her home (typically, the detention hearing). For removals occurring on or after March 27, 2000, if this finding is not made at the first hearing which removes the child from his/her home, the child is ineligible for Federal AFDC-FC funding for the duration of that episode in foster care.

For State AFDC-FC, this finding must be made prior to the approval of State AFDC-FC benefits, but need not be in the first court order removing the child from his or her home.

## 2. Placement and Care Finding

The EW must verify that the court made a finding that 'placement and care' is vested with one of the following agencies:

- County Welfare Department
- County Probation Department
- Licensed Public Adoption Agency

Other acceptable examples include: 'temporary placement and care is vested with the county' or 'care, custody, and control is vested with the county.' This finding may be in any court order, but State and Federal AFDC-FC foster care cannot be granted prior to the finding being made.

The County must ensure that Title IV-E foster care payments are not paid to providers once the agency has closed the case and no longer has responsibility for placement and care and, if an unallowable payment is made, that adjustments are made accordingly.

## 3. Reasonable Efforts Finding

The EW must verify that the court made a finding that 'reasonable efforts to prevent or eliminate the need for removal' have been made by the county. This finding must be made by the court no later than sixty (60) days from the date the child is removed from the home. If this finding is not made timely, the child is ineligible for Federal AFDC-FC funding for the duration of that episode in foster care. For State AFDC-FC, this finding must be made prior to the approval of



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State AFDC-FC, but need not be made within sixty (60) days from the date of removal. Neither State AFDC-FC nor Title IV-E can be claimed until the month in which the judicial determination is rendered and all other eligibility requirements are met.

A finding that reasonable efforts to prevent removal and/or reunify the family is not required when the county obtains a finding from a judge that reasonable effort were not necessary because:

- The parent has subjected the child to aggravated circumstances such as abandonment, torture, chronic abuse, or sexual abuse; or
- The parent has been convicted of murder or voluntary manslaughter of another child of the parent; or
- The parent has been convicted of aiding or abetting, attempting, conspiring, or soliciting to commit such a murder or voluntary manslaughter; or
- The parent has been convicted of a felony assault that results in serious bodily injury to the child or another child of the parent; or
- The parental rights of the parent have been terminated for a sibling of the child in foster care.

4. Chart: 3 Findings

Findings	Contrary to the Welfare of the Minor	Placement and Care	Reasonable Efforts
<b>Federal Requirement</b>	Must be made at the first hearing which is typically the detention hearing. If there is a continuance <b>without</b> a contrary to the welfare findings, the child is not eligible for Federal Foster Care.	This finding can be made in any court order but Federal Foster Care cannot be granted prior to this finding being made.	This finding must be made by the court no later than 60 days from the date the child is removed from the home. If this finding is not made timely the child is not eligible for Federal Foster Care.
<b>State Requirement</b>	Must be made prior to approval of State Foster Care but does not need to occur at the first hearing	This finding can be made in any court order but State foster Care cannot be granted prior to this finding being made	This finding can be made in any court order but State Foster Care cannot be granted prior to this finding being made. There is no 60-day requirement.

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For additional documents and information necessary to approve a Foster Care application, refer to DM 45-102, Application/Beginning Date of Aid.

B. Requirements Aligned With CalWORKs

Many of the current CalWORKs eligibility requirements are the same as the AFDC rules as they existed on July 16, 1996. Therefore, they still apply to the Foster Care Program, including:

- Social Security Number requirements: Refer to '*Social Security Numbers*', DM 45-201.7
- Age: Refer to '*AFDC-FC Requirements, Age*', DM 45-201.1
- Deprivation due to absence, incapacity or death, EAS 45-202.1 and 45-203.1.
- Child Support: Refer to '*Child Support Requirements*', DM 45-201.4

C. Requirements Not Aligned with CalWORKs

Foster Care requirements are based on AFDC rules which were in effect on July 16, 1996. Those rules which differ from the current CalWORKs program must be reviewed and documented separately when determining Federal linkage, including but not limited to:

- Personal Property (property limits, motor vehicle exemption, trusts, etc.): Refer to DM 45-201.2
- U-parent Deprivation: Refer to page 16 in this manual section
- Income below MBSAC/MAP: Refer to DM 45-201.3
- Income Disregards: Refer to DM 45-201.3

Other requirements may differ from CalWORKs as new legislation is enacted; however Foster Care eligibility requirements will continue to be based on July 16, 1996 AFDC program rules, not CalWORKs.

D. Purpose

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Federal eligibility must be explored when making a Foster Care payment, because:

- When there is Federal financial participation (FFP), the state and county share of the Foster Care payment is reduced.
- When the child is court placed with a relative Federal eligibility determines whether the relative has the option to choose CalWORKs, or Foster Care (*Miller v. Youakim*).
- When the child is placed out of state, Federal eligibility can affect which state issues Medicaid (Medi-Cal in California).

## E. Linkage Criteria

Federal eligibility (linkage) for Foster Care can be established if there is AFDC linkage in the month that the petition is filed or the voluntary placement agreement is signed. Federal linkage requirements can be partially documented by receipt of CalWORKs. A FC3 CC, 'Preponderance of Evidence Model' (POEM) determination must be completed for all cases, to ensure that eligibility exists according to July 16, 1996 AFDC rules which differ from the CalWORKs Program. The EW must determine if:

- The child lived with the parent or relative from whom removed in the petition month; or
- If the child lived with the parent or relative from whom removed in the petition month and 'would have been eligible for AFDC' had an application been made; or
- The child was no longer living in the home of the parent or relative from whom removed, but 'would have been eligible for AFDC' based on that parent's or relative's home had s/he been living there and had application been made.

This condition is met as long as the child had lived in the home of the parent(s) or relative(s) from whom removed within the six month period prior to when the petition was filed, AND the child's parent(s)/relative(s) would have been eligible for AFDC during the month of petition, had an application been made.

- The child must not be re-placed with that same parent/relative; and
- The child must not be receiving SSI.

**NOTE:** If the child would have been AFDC eligible except for the receipt of SSI,



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Federal eligibility can be claimed when SSI is suspended/terminated. It is important for the EW to ensure that the appropriate aid code is used when the county either becomes or ceases to be payee for the child's SSI.

F. FC 3/FC 3CC

A '*Determination of Federal AFDC-FC Eligibility*' (FC 3) and the '*POEM Worksheet*', (FC 3CC) must be completed and scanned into every case. The '*Collect Foster Care AFDC Eligibility Detail*' window has 3 tabs with worksheets which cannot be saved in the system but may be used by the worker to assist in making the AFDC-FG/U linkage determination.

When Federal eligibility is partially established by the receipt of CalWORKs and a POEM determination, case information in CalWIN for the month of petition must be reviewed and documented, and/or a MEDS screen for the child and the relative from whom removed showing receipt of CalWORKs in another county, must be attached to the FC 3/FC 3CC as verification.

**REMINDER:** The CalWORKs program uses semi-annual reporting and retrospective budgeting. The Assistance Unit (AU) must submit a Semi-Annual Report (SAR 7) every 6 months. Eligibility and benefits for a 6-month period must be based on reasonably anticipated income (earned and unearned) reported by the client on the SAR 7. The child may not be eligible for Foster Care because they received CalWORKs in the month of petition. Foster Care EWs must verify with the parent and/or Social Worker the actual earned and/or unearned income received in the month of petition.

G. Home of Removal

Federal and State law mandate that removal of children from their homes occurs only after a judicial determination has been made in a court order. Therefore, the court order is the document which defines from whom a child is removed. The person (or persons) listed on the court order is 'the home of the parent, relative or guardian from whom removed'. To determine home of removal for Federal Foster Care eligibility the EW must continue to look at the court order to identify from whom the child was removed.

It is also important for the EW to ensure that the allegations on the petition are against the same person from whom removed.

H. Child's Mother is an Inmate or Patient at Time of Removal

1. County of Residence and Responsibility:  
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An inmate's legal residence is defined as the county in which he/she was residing at the time of arrest, regardless of where the arrest, trial or incarceration takes place. A child's county of residence is determined by the county of residence of the parent with whom the child resides. Therefore, the 'county of residence' for a child born to an inmate is the county where the inmate resided at the time of arrest. If the child becomes or is made a dependent, that county is responsible for the infant's care, custody and control.

**EXCEPTION:** When a court has awarded another person custody or guardianship of the child, the child's county of residence is that of the person awarded custody or guardianship, regardless of the mother's county of residence. If the child becomes or is made a dependent, that county is responsible for the infant's care, custody and control.

2. Home of Removal:

When determining 'home of removal', Federal eligibility can be established for a child who is placed in Foster Care when the mother is an inmate or patient in a state hospital at the time of removal. This includes:

- A child born to a woman who is an inmate or patient
- A child who is placed in Foster Care while waiting for the mother's release
- A child who is born in jail or a state hospital, and parental rights are terminated directly after birth

According to Federal policy, 'home' for the above-mentioned child is the hospital or jail where the mother is residing and/or where the child is born and is subsequently removed.

The following conditions must also exist during the month in which the petition is filed:

- The child is deprived of the support of the absent father
- The child is removed from the home of a parent or relative (as defined above) as the result of a court order



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- The child is placed in Foster care
- Linkage can be established by making a POEM determination

**NOTE:** In addition, the child must meet all other Foster Care eligibility requirements.

I. Status of Placement

The placement sometimes determines whether a payment has Federal Financial Participation (FFP), or any foster care eligibility. To make these determinations, the following issues must be explored:

- Is the child placed in a state-licensed group home which is a non-profit home or has a director’s exception been granted for payment?
- Is the home licensed, certified or approved?
- Does a guardian case have dependency?
- Is the child in the home of the parent or relative from whom removed?

J. Federal v. State Requirements

An AFDC-FC eligible child will be aided under either Federal AFDC-FC or state AFDC-FC depending on the child’s circumstances.

The charts below describe Federal and state requirements for AFDC-FC.

Federal v. State (Non-Federal) Requirements

Requirements	Federal Program (45-202)	State Program (45-203)
Authority for Placement	1. A juvenile court order which removed the child from his/her parent or relative. It may be either a: <ul style="list-style-type: none"> <li>a. Detention order, or</li> <li>b. Jurisdictional/Dispositional order</li> </ul> 2. Placement as a result of a Voluntary Placement Agreement.	1. A juvenile court order which may be either a: <ul style="list-style-type: none"> <li>a. Detention order, or</li> <li>b. Jurisdictional/dispositional order, or</li> </ul> 2. Relinquishment/termination of parental rights (e.g. pre-adopts); or

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	(Refer to Federal Special Provisions sections in this chart for more information.)	<ol style="list-style-type: none"> <li>3. Voluntary placement agreement (Refer to State Special Provisions sections in this chart for more information); or</li> <li>4. Non-related legal guardianship.</li> </ol>
Placement and Care Responsibility	<p>Can be any one of the following:</p> <ol style="list-style-type: none"> <li>a. County welfare department (CWD)</li> <li>b. Probation department</li> <li>c. Licensed public adoption agency</li> <li>d. District adoption office of State Department of Social Services (SDSS)</li> </ol>	<p>Can be any one of the following:</p> <ol style="list-style-type: none"> <li>a. CWD</li> <li>b. Probation department</li> <li>c. Licensed public or private adoption agency</li> <li>d. District adoption office of SDSS</li> <li>e. Non-related legal guardian</li> </ol>
With Whom Child May Be Placed	<ol style="list-style-type: none"> <li>1. Non-relative</li> <li>2. Relative (other than relative from whom removed)</li> </ol>	Non-relative only
Eligible Facilities	<ol style="list-style-type: none"> <li>1. Family Home                     <ol style="list-style-type: none"> <li>a. Resource Family Home/Licensed Family Home</li> <li>b. Resource Family Home/Certified Home of a Foster Family Agency (FFA)</li> <li>c. Resource Family Home/Approved home (approved home of a relative)</li> </ol> </li> <li>2. Group Home—must be licensed, private and non-profit,</li> </ol>	<ol style="list-style-type: none"> <li>1. Family Home                     <ol style="list-style-type: none"> <li>a. Resource Family Home/Licensed Family Home</li> <li>b. Resource Family Home/Certified Home of a Foster Family Agency (FFA)</li> <li>c. Approved home (approved home of a non-related legal guardian)</li> </ol> </li> <li>2. Group Home—must be licensed, private, and non-profit only.</li> </ol>
Special Provisions	<p>AFDC-FG/U Linkage Requirement:</p> <ol style="list-style-type: none"> <li>1. Child lived with parent or relative from whom removed in petition month and would have received Federal AFDC-FG/U had an application been made; or</li> <li>2. The child was living in the home of the</li> </ol>	<p>The legal guardian must cooperate in the provision of services.</p> <p>Voluntary Placements:</p> <ol style="list-style-type: none"> <li>1. Decision to accept child for voluntary placement may only be made by:</li> </ol>

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	<p>parent or relative from whom removed, within any of the 6 months prior to the month of petition and would have been eligible for AFDC-FG/U had an application been made.</p> <p>NOTE: This last condition is met as long as the:</p> <ul style="list-style-type: none"> <li>a. Child had lived in the home of the parent(s) or relative(s) from whom removed within any one of the six months prior to the month in which the petition was filed, and</li> <li>b. Parent(s)/relative(s) would have been eligible for AFDC-FG/U during the month of petition, had application been made.</li> </ul> <p>Removal by Voluntary Placement:</p> <p>Removal from the home of a parent or guardian as a result of a voluntary placement agreement to an out-of-home placement, without adjudication by the juvenile court, shall occur only when both of the following conditions exist:</p> <ul style="list-style-type: none"> <li>1. There is a mutual decision between the child's parent or guardian and the placing agency, and</li> <li>2. There is a written binding agreement between the county, a licensed public or private adoption agency or the state acting as an adoption agency, and the parent or guardian of a minor.</li> </ul> <p>The voluntary placement agreement shall specify:</p> <ul style="list-style-type: none"> <li>1. The legal status, rights and obligations of the child.</li> <li>2. The rights and obligations of the placing agency.</li> <li>3. The rights and obligations of the parent/guardian.</li> <li>4. Any other relevant factors.</li> </ul>	<ul style="list-style-type: none"> <li>a. County Welfare Department (CWD)</li> <li>b. Licensed Public Adoption Agency</li> <li>c. District Adoption Office of SDSS</li> </ul> <p>2. Length of voluntary placement:</p> <p>On or after January 1, 1982 the child is eligible for a maximum of six months. The placement need not be continuous. If more than one placement occurs, the AFDC-FC payments for all the voluntary placements of the same child must not exceed a total of six months.</p>
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	<p>Time Limitations</p> <ol style="list-style-type: none"> <li>1. A child voluntarily placed shall be eligible for AFDC-FC payments for a period up to 180 days from the date the child is placed and the placement agency/eligible facility assumes responsibility under a voluntary placement agreement provided all other eligibility factors are met.</li> <li>2. The voluntary placement agreement shall be signed prior to or at the time of placement and shall state the beginning date of placement and planned return date of the child to their home. This period shall not exceed 180 days.</li> <li>3. A child shall be eligible for a subsequent new 180-day period of eligibility for AFDC-FC payments only if:             <ol style="list-style-type: none"> <li>a. The child's prior voluntary placement had been terminated, and</li> <li>b. The child had been returned to their home.</li> </ol> </li> </ol> <p>Subsequent placements must meet the requirements of (3.a. and b.) above.</p> <p>Eligible Payees:</p> <ol style="list-style-type: none"> <li>1. A Resource Family Home in which the child has been placed</li> <li>2. A licensed, private, nonprofit group home in which the child has been placed</li> <li>3. Resource Family Home/Certified Home of a Foster Family Agency (FFA)</li> <li>4. An NMD as his/her own payee, living in an approved living situation</li> </ol>	<p>Eligible Payees:</p> <ol style="list-style-type: none"> <li>1. Any of the payees considered eligible in the Federal Program</li> <li>2. The non-related legal guardian with whom the child has been placed, regardless of whether the guardianship order is temporary or permanent</li> <li>3. An NMD, as his/her own payee, living in an approved living situation</li> </ol>
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K. State Foster Care

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The following are the requirements for State Foster Care:

	State Program (EAS 45-203)
Authority for Placement	<ol style="list-style-type: none"> <li>1. A juvenile court order which may be either a:                             <ol style="list-style-type: none"> <li>a. Detention order, or</li> <li>b. Jurisdictional/dispositional order</li> </ol> </li> <li>2. Relinquishment/termination of parental rights (e.g., pre-adopts)</li> <li>3. Voluntary placement agreement (refer to State Special Provisions sections in this chart for more information)</li> <li>4. Non-related legal guardianship</li> </ol>
Placement and Care Responsibility	<ol style="list-style-type: none"> <li>1. CWD</li> <li>2. Probation department; or</li> <li>3. Licensed Public OR Private adoption agency; or</li> <li>4. District adoption office of SDSS; or</li> <li>5. Non-related legal guardian</li> </ol>
With Whom Child May be Placed	Non-relative only
Eligible Facilities	<ol style="list-style-type: none"> <li>1. Family Home                             <ol style="list-style-type: none"> <li>a. Resource Family Home/Licensed Family Home</li> <li>b. Resource Family Home/Certified Home of a Foster Family Agency (FFA)</li> <li>c. Approved home (extended family member or a former relative)</li> <li>d. The home of a non-related legal guardian or the home of a former non-related legal guardian when the guardianship of a child who is otherwise AFDC-FC eligible has been dismissed due to the child's attaining age 18, which has been determined to be suited to the needs of the child by the SW/PO.</li> </ol> </li> <li>2. Group-Home – must be licensed, private and non-profit only</li> </ol>
Special Provisions	Eligible Payees:  Any of the eligible payees in the Federal Program except a relative

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	<p>The non-related legal guardian with whom the child has been placed, regardless of whether the guardianship order is temporary or permanent.</p> <p>An NMD as his/her own payee, living in an approved living situation</p>
Deprivation	No deprivation is required for a Non-Federal child.

L. Preponderance of Evidence Model (POEM)

The Preponderance of Evidence Model (POEM) is a method of establishing a child’s AFDC Linkage in the month of petition. The following outlines the POEM requirement for cases in which the child was NOT receiving CalWORKs in the home of removal. To obtain Federal Eligibility based on POEM ALL of the criteria in the following sections apply.

1. Deprivation

The child must be deprived of parental support or care due to one of the following:

- Deceased parent
- Incapacitated parent
- Unemployed parent
- Absent parent

2. Supportive Case File Documentation

Information in the service or probation case file may be used to support an initial assumption of Federal linkage to AFDC. The portions of the service or Probation case file that support the AFDC Linkage determination must be indicated on the ‘*Determination of Federal AFDC-FC Eligibility*’ (FC 3) form, and placed in the Foster case file.

**NOTE:** If the service or probation case file indicates that both parents were in the home and employed or otherwise failed to meet Federal eligibility requirements, there is no Federal eligibility.



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3. Third Party Verification

Third party verification is defined as the use of outside sources to verify pertinent information, if relevant documentation is not found in the case file. It is required to support the determination that AFDC eligibility would have existed had an application for AFDC been made in the month of petition. Third party verification must support the AFDC eligibility determination or at a minimum confirm that no evidence contradicts the eligibility assumption. If conflicting information exists, clarification must be resolved to support AFDC linkage.

For example:

- The Foster Care EW may contact another Social Service Agency to clarify needed documentation.
- A grandmother may complete an affidavit regarding a situation in the home of removal.

4. Verification from IEVS

Third Party Verification can be obtained if the parent’s Social Security Number (SSN) is known. The following table lists the verification requirement if a parent(s) SSN is known:

<b>Requirements</b>							
1.	<table border="1" style="width: 100%;"> <thead> <tr> <th style="text-align: left;">If the child was living with...</th> <th style="text-align: left;">Then...</th> </tr> </thead> <tbody> <tr> <td>Both parents</td> <td>An attempt to obtain an IEVS abstract must be made on both parents. At a minimum, an IEVS abstract on the principal earner is required</td> </tr> <tr> <td>Only one parent</td> <td>An IEVS abstract on that parent is required</td> </tr> </tbody> </table>	If the child was living with...	Then...	Both parents	An attempt to obtain an IEVS abstract must be made on both parents. At a minimum, an IEVS abstract on the principal earner is required	Only one parent	An IEVS abstract on that parent is required
If the child was living with...	Then...						
Both parents	An attempt to obtain an IEVS abstract must be made on both parents. At a minimum, an IEVS abstract on the principal earner is required						
Only one parent	An IEVS abstract on that parent is required						
2.	The IEVS abstract must: <ul style="list-style-type: none"> <li>• Support the information in the current case record</li> <li>• Show that property and income is within the Federal AFDC limits</li> </ul>						
3.	If an IEVS abstract supports an assumption of AFDC eligibility during the first 9 months of placement, Federal eligibility can be claimed retroactively to the month of the petition/placement. <p><b>NOTE:</b> When an ‘Insufficient Information’ (Non-Federal) determination has been made</p>						

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	at intake, the field EW shall continue to request IEVS abstract until the information received covers the month of petition. The Intake EW shall set ticklers to remind the field EW to request IEVS.
4.	<p>Some earnings do NOT show up on an IEVS abstract, including:</p> <ul style="list-style-type: none"> <li>• Federal employment,</li> <li>• Self-employment,</li> <li>• Out-of-state employment, or</li> <li>• Companies not covered by Unemployment Insurance Benefits (UIB)</li> </ul> <p>When a parent has income from any of the sources listed above, refer to section, 'Verification When the SSN is Unknown' below.</p>

5. Verification When The SSN is Unknown

An IEVS abstract cannot be obtained if the SSN is unknown. In this situation, follow the procedures below:

	Requirements	
1.	Third party verification from at least TWO independent sources must be obtained to support the information in the service or probation case file.	
2.	<p>Independent sources may include records from:</p> <ul style="list-style-type: none"> <li>• Other Social Service agencies</li> <li>• Schools</li> <li>• DMV</li> <li>• County Assessor</li> <li>• Police</li> <li>• Public Health</li> <li>• District Attorney/Child Support</li> <li>• Charitable organizations</li> <li>• Housing Authority/Landlord</li> <li>• Utility Companies</li> <li>• Court Reports</li> <li>• Information from Social Worker/Probation Officer</li> <li>• Written affidavits from relatives with knowledge relevant to the circumstances of the parent(s) and child</li> </ul>	
3.	<b>If the parent(s) SSN becomes available...</b>	<b>Then...</b>





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	During the first 9 months of placement,	The IEVS verification process must be used.  If it does not support the original POEM determination of Federal eligibility, an adjustment to the Federal claiming must be made.
	After the first 9 months of placement,	The IEVS verification process does not have to be used.

M. Unemployed Parent Deprivation

If no other deprivation exists, i.e. the Foster Care child’s parent is NOT absent, deceased, incapacitated in the month the petition was filed or the voluntary placement agreement was signed, the Foster Care EW must use the AFDC rules which were in effect on July 16, 1996 to determine if there is unemployed parent deprivation for Federal eligibility. Both parents must be in the home.

The EW must determine the following:

- Does either of the child’s parents meet the definition of ‘unemployed’ parent (is not working or is employed less than 100 hours per month). Refer to Principal Earner, below for definition
- Which parent is the ‘Principal Earner’? See definition below
- Does the principal earner meet the requirements to establish unemployed parent deprivation? (e.g. has been ‘unemployed for 30 consecutive days’, has not quit or refused a job or employment training within 30 days, etc.) Refer to Principal Earner, page 19, #2
- Does the principal earner have a connection with the labor force? Refer to ‘Connection with the Labor Force’, page 20, R

1. Definition – Unemployed Parent

An unemployed parent is a natural or adoptive parent with whom a child is living (both parents must be in the home) and who:

- Is the principal earner, AND
- Is not working, OR

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- Is employed, but employed less than 100 hours per month, OR
- Is employed 100 hours or more in a particular month, but the work is intermittent and the excess over the 100 hours is temporary in nature as evidenced by:
  - Employed less than 100 hours in the two prior months, AND
  - Is expected to be employed less than the 100 hours in the succeeding month.

**NOTE:** If none of the above ‘unemployed parent’ criteria is met in the month of petition, STOP. There is no Federal Eligibility based on U-parent deprivation.

**REMINDER:** The ‘100 Hour Rule’ (above) was eliminated for AFDC recipients effective 12/1/92, due to a Federal waiver. CalWORKs recipients may be employed more than 100 hours per month and still be cash eligible. Check hours of employment if it is possible that the parent does not meet the above criteria.

**NOTE:** For purposes of deprivation, parents in On the Job Training, Public Services Employment and parent is in Job Training Partnership Act (JTPA) Employment are considered ‘employed’, if participating over 100 hours.

## 2. Principal Earner

The ‘principal earner’ (PE) is whichever parent (when both parents of the child are in the home) earned the greater amount of income in the 24-month period, the last month of which immediately precedes the month the petition being used was filed or the voluntary placement agreement was signed.

When either parent can qualify as the principal earner because both parents earned an identical amount of income in the applicable 24-month period, the EW must designate:

- The parent who can establish Federal Financial Participation (FFP), or
- Either parent, if both can establish FFP

## 3. Principal Earner Requirements

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The principal earner must meet the following requirements in the month the petition is filed or the voluntary placement agreement is signed, to establish Federal eligibility for Foster Care.

- Did NOT quit a job or employment related training within the 30 days prior to the month of petition, without good cause
- Did NOT refuse an offer of employment or employment related training within 30 days prior to the month of petition, without good cause
- Has been 'unemployed' for at least 30-consecutive calendar days prior to the month the petition was filed
- Was NOT unemployed as a result of his/her participation in a strike
- Has, or will apply for a Social Security Number
- If the principal earner was receiving cash aid in the month of petition, he/she was required to apply for and accept UIB, if apparently eligible; fulfill the requirements of a work training program or be registered for work and cooperate with Employment Services

## 4. Good Cause Determination

The parent who is the principal earner must not have refused employment or employment related training without good cause in the 30-day period immediately prior to the month the petition was filed/voluntarily signed. Carefully document the basis for good cause.

There is good cause when one or more of the following conditions exist:

- Wage offered was less than minimum wage or was lower than the customary wage for the type of employment
- The employment exceeded the individual's mental or physical capability
- Illness
- No transportation

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- Employer in violation of licensing, compensation/other insurance or health and safety laws

## 5. Connection With the Labor Force

**REMINDER:** Effective January 1, 1998, the ‘connection with the labor force’ criteria for U-parent deprivation was eliminated from the CalWORKs Program. However, 7/16/96 AFDC rules must be used when determining Federal eligibility for Foster Care. First determine the principal earner and then establish if there is a connection with the labor force.

The principal earner must have established a connection with the labor force.

- By meeting either of the requirements listed below in 6 calendar quarters within any 13 calendar quarter period which ended within one year before the date the petition was filed or the voluntary placement agreement was signed.
  - Earned gross income of at least \$50 during the quarter (Employment can be in the U.S. or another country. General Assistance (GA) payments received for participation in a work program cannot be counted); or,
  - Participated during the quarter in any one or more of the following;
    - Community Work Experience Program (CWEP)
    - An activity administered under WIN, WIN Demo, or Greater Avenues for Independence (GAIN). (Participation in CIU training does NOT meet this requirement.); or,
- By receiving, or being eligible to receive, Unemployment Insurance Benefits (UIB) within one year before the date of petition. The words ‘being eligible to receive’, as used in this section mean that:
  - The parent would have been eligible to receive UIB upon filing a UIB application within the year prior to the month of petition, or
  - The parent performed work not covered by UIB and, if the work had been covered, together with any covered employment, the parent would have been eligible to receive UIB.



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- If the EW cannot establish that there is a connection with the labor force by evidence that the parent was eligible for or receiving UIB, explores other evidence of the parent’s earnings or participation in a training program.
6. Methods of Establishing a Connection with the Labor Force

Counting Calendar Quarters:

**NOTE:** The ‘POEM Worksheet’, FC3 CC, must be used to determine the principal earner’s quarters of work and/or training.

- a. Start in the quarter PRIOR to the quarter in which petition was filed
- b. Count 16 quarters prior to that quarter
- c. Check employed and/or training in any of the 16 quarters in which parent meets requirements (\$50 gross or 5 days training)

**NOTE:** Work quarters may be mixed with training quarters to arrive at a total of 6 quarters

- d. If 6 quarters are marked and they fall within a 13-quarter span ending one year prior to the ‘petition’ quarter, the parent has established a connection with the labor force

**NOTE:** Work performed either inside or outside the U.S. should be evaluated, including work performed in refugee camps. Earnings eligible for consideration include money and in-kind income. Training programs are limited to participation in Community Work Experience Programs, (CWEP), WIN, WIN DEMO, or GAIN

Establishing Eligibility for UIB:

To completely explore possible UIB eligibility, look at the earnings history within the time span from 2 ½ years prior to the month of petition, but not including the last completed quarter before the month of petition quarter.

To determine the weekly benefit amount of UIB:

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- Determine the Base Period, and
- Determine the wage amount in the quarter of the base period with the highest earnings

The claimant’s base period is a 12-month period which is based on the month the claim was filed. The quarter with the highest earnings determines the weekly benefit amount of UIB:

For A Claim beginning in:	Base period is the 12-month ending the previous:
February, March or April May, June or July August, September or October November, December or January	September 30 December 31 March 31 June 30

For a UIB claim to be valid, the individual must have at least \$1,300 in earnings in one quarter of their base period or at least \$900 in earnings in the highest quarter and total base period earnings of 1.25 times their high quarter earnings.

7. Documenting Unemployed Parent Deprivation

The Foster Care EW may explore the following sources of information to document unemployed parent deprivation:

- UIB information obtained from IEVS, including UI/DI Match, EDD Match and the EDD Real-Time Match
- Information obtained from the child’s parents’ eligibility case (CalWORKs, Food Stamps or Medi-Cal); such as, but not limited to, Statement of Facts forms (SAWS 2, CF 285), income/status report (SARS 7)
- Court reports
- Contact with child’s parent, SW/PO, etc.

N. Income

Refer to DM 45-201.3, ‘Eligibility Requirements, Needs and Income’

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## O. Budgeting, Federal Eligibility Determination

## 1. Rules

When determining Federal eligibility for Foster Care, the AU must pass BOTH the:

- 185% of MBSAC Income Test, and
- Financial Eligibility Test (FET)

If the AU does not pass both of these tests in the month of petition, there is no Federal eligibility. Use the FC 3 and FC3 CC (mandatory) and the '*Collect Foster Care AFDC Eligibility Detail*' screen (optional) for budgeting.

## 2. Minimum Basic Standard of Adequate Care (MBSAC)

First, determine the number of people in the Assistance Unit (AU) and the total number of people in MBSAC. Add any Nonrecurring AFDC Special Needs for the AU, using AFDC MBSAC figures (found on FC3 CC) which were in effect 7/16/96.

**NOTE:** 'Special Needs' (above) does NOT refer to a Foster Care special rate paid for the needs of a Foster Care child

## 3. 185% Test

When the total reported or estimated gross income plus any income deemed to the AU in the month of petition exceeds 185% of MBSAC plus any AFDC Special Needs, there is NO Federal eligibility. Do NOT compute the Financial Eligibility Test (FET).

When determining gross income of the AU, include ALL of the following:

- Gross earnings from employment. (Do NOT allow the \$90 Standard Work Expense (SWE), the \$30 and 1/3 disregard, or the dependent care deduction when computing the 185% Test)
- Net self-employment earnings (deduct business expenses)
- Child Support (minus the \$50 disregard)

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- Gross earnings of all children, including students, once their 6-month student exemption is used up
- Income deemed to the AU, including but not limited to, income from a stepparent, senior parent, ineligible alien parent, etc.
- Any other non-exempt income of persons in the AU or persons whose income must be counted towards the AU, including the gross income of persons who are excluded for cause (sanctioned)

To compute the 185% Test, follow these steps:

STEP	ACTION	
1.	Determine the GROSS earned income	
2.	Determine the GROSS self-employment income	
3.	Subtract all allowable business expenses to determine NET self-employment income	
4.	Add to the GROSS earned income (from Step #1) the net self-employment income (from Step 3), and any other countable gross earned and unearned income including deemed income. This equals total income to the AU.	
	<b><u>IMPORTANT:</u></b>	
	<ul style="list-style-type: none"> <li>• Do NOT allow the \$90 Standard Work Expense (SWE) or the \$30 and 1/3 Disregard</li> <li>• Do NOT allow the Child/Dependent Care Deduction</li> <li>• Allow the \$50 Child Support Disregard, if applicable</li> <li>• Do NOT count exempt or excluded income</li> </ul>	
4.	<b>Compare the total remaining income in Step 4 with 185% of the 7/16/96 MBSAC plus any AFDC Special Needs, if applicable. (see chart on page 2 of FC3 CC)</b>	
	<b>IF THE INCOME...</b>	<b>THEN...</b>
	Exceeds 185%	There is no Federal AFDC eligibility for the AU. Establish a Non-Federal Foster Care case
	Equals or is less than 185%	Compute the Financial Eligibility Test

4. Financial Eligibility Test (FET)

If the AU passes the 185% Test, then determine financial eligibility in the month

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of petition, either using actual or estimated income based on the preponderance of evidence. When actual or estimated income exceeds MBSAC plus any AFDC Special Needs, there is NO Federal eligibility.

**NOTE:** ‘Special Needs’ (above) does NOT refer to a Foster Care special rate paid for the needs of a Foster Care child.

To determine financial eligibility, use the ‘*Determination of Federal AFDC-FC Eligibility*’, FC 3:

- a. Enter gross earnings
- b. Subtract the \$90 Standard Work Expense from the earned income of each employed person
- c. Subtract the \$30 and 1/3 disregard from the income of each person with earnings, if the person with earnings is otherwise eligible for it
- d. Subtract dependent care (up to \$175 for each child age 2 or older or incapacitated person; up to \$200 for each child under 2)
- e. Enter net earnings
- f. Add other nonexempt unearned income, including any deemed income
- g. Add any child support received, less the \$50 disregard
- h. Subtract any court-ordered child support which is being paid
- i. Compare the total net non-exempt income to the 7/16/96 MBSAC plus any AFDC Special Needs for the AU

To determine if the Foster Care child’s parent(s)/caretaker relative passes the FET, follow these steps:

STEP	ACTION
1.	Determine the total gross income from employment
2.	Add any net income self-employment income (gross self-employment income minus allowable business expenses). The total from Step 1 and Step 2 equals the Total Earned Income
3.	Subtract the following deductions, as appropriate, to determine the net non-exempt



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	earned income: <ul style="list-style-type: none"> <li>• \$90 standard work expense disregard from the earned income of each employed person</li> <li>• \$30 and 1/3 disregard from the earned income of each employed person, if otherwise eligible for it</li> <li>• Child/Dependent Care costs (up to \$175 for each child age 2 or older or incapacitated person; up to \$200 for each child under 2)</li> <li>• Court Ordered Child Support being paid</li> </ul> The remainder equals net nonexempt earnings	
4.	Add any nonexempt unearned income, including deemed income. This total equals the net nonexempt income of the Assistance Unit (AU)	
5.	Compare the amount in Step 4 to 7/16/96 MBSAC for the AU, plus any AFDC Special Needs, if applicable	
	<b>IF THE NET NONEXEMPT INCOME...</b>	<b>THEN...</b>
	Is equal to or greater than 7/16/96 MBSAC	There is NO AFDC eligibility for the AU—Establish a Non-Federal Foster Care Case
	Is less than 7/16/96 MBSAC	There is Federal eligibility for Foster Care

P. AU Composition, Federal Eligibility Determination

1. Overview/Usage

When determining Federal Eligibility for Foster Care, EWs must follow 7/16/96 AFDC rules. A summary of the AFDC Assistance Unit (AU) composition rules are provided for reference, as needed, to determine who to include in the AFDC AU.

The CalWORKs rules for AU composition, including ‘mandatory inclusion’, ‘optional inclusion’ and the rules for combining AUs are the same as they were under the AFDC program on 7/16/96. Therefore, if the family received CalWORKs in the month of petition, there is no need to reevaluate AFDC AU Composition when determining Federal Eligibility. However, other factors of AFDC eligibility must be reviewed, (i.e. property, income, etc.), to determine if, in the month of petition, the family ‘would have been eligible under 7/16/96 AFDC rules had an application been made’. When determining Federal eligibility, follow this process:

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STEP	ACTION
1.	Determine if there is deprivation
2.	Determine who is included in the AFDC AU (mandatory persons/optional persons)
3.	Determine if the total nonexempt property of the AFDC AU is within the \$10,000 personal property limit
4.	Determine income eligibility

The above information must be documented on the FC 3/FC 3CC and in the case comments.

2. Minimum Requirement

The EW must determine who in the family is mandatorily included and excluded from the AU and whether or not an optional person is included in the AU.

An AU must have at least:

- a. One eligible child, or
- b. A needy caretaker relative of an otherwise eligible SSI/SSP child or a child who is eligible to receive Federal Foster Care (Aid Code '42'), or
- c. A pregnant woman, or
- d. A relative of a child who is sanctioned by Employment Services/GAIN

**NOTE:** Only one needy caretaker relative, who is not the parent of the eligible child, can be aided. For example: if the grandmother is the needy caretaker relative of her grandchild, she and the grandchild will be in the AU. The grandfather will not be included.

3. Mandatory Persons

The following persons must be included in the AU when they are living in the same home and are eligible:



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- a. The applicant child
- b. Any eligible sibling or half-sibling of the applicant child who meets the age requirement
- c. Any parent of the applicant child or the applicant child's siblings or half-siblings with deprivation who meet the age requirement, except for an alternately sentenced parent (ASP).

4. Optional Persons

The following persons who are not otherwise required to be in the AU must be included upon the request of the applicant/recipient:

- a. Any nonparent relative who has been determined to be an appropriate caretaker relative (i.e. aunt, uncle, grandmother, etc.)
- b. Any essential person, who meets the necessary requirements (e.g., the stepparent or an alternatively sentenced parent)
- c. Any other eligible children, including but not limited to a niece or nephew

5. Combining Assistance Units

Two or more AUs in the same home must be combined into one AU when:

- a. A caretaker relative is married to another caretaker relative in another AU, or
- b. There is only one caretaker relative, or
- c. Two caretaker relatives in the home have separate children and also have an eligible child in common

**NOTE:** An eligible child in common is a child who meets all linking and non-linking eligibility factors (i.e., deprivation, age, residence, property, etc.) and who is not excluded by law.

6. Stepparent Households

Refer to 'Stepparents, Federal Eligibility Determination', page 31, for AFDC AU and Stepparent Unit composition rules, and deemed income computation.

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## 7. AU Determination, Steps

The EW must establish who is in an eligible AU by determining:

- a. Who provides the basis for the AFDC AU
- b. Who must be mandatorily included in the AU
- c. If the entire family is ineligible due to a lump sum income computation or due to strike status
- d. Which optional persons may choose to be included in the AU
- e. If there are persons who must be excluded either by law or due to a sanction
- f. Eligibility and the grant level for the AU

## Q. Excluded Persons, Federal Eligibility Determination

When determining if there is Federal eligibility in the month of petition, 7/16/96 AFDC rules apply. There are two groups of individuals who must be excluded from the AFDC AU:

- Persons excluded by 'law'
- Persons excluded for 'cause' (sanctioned)

**NOTE:** The deemed income from people who fall into both categories above must be counted when completing the FC3

## 1. Excluded by Law

Persons 'excluded by law' (regulation) are ineligible for AFDC, however, their deemed income is to be counted

A person excluded from the AFDC AU by law is a person who:

- a. Is a child living with his/her minor parent who is receiving Foster Care

**NOTE:** The child may be otherwise eligible for an Infant Supplement



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- b. Does not meet citizenship/alien status requirements
  - c. Is an unborn child's father who is living in the home with the pregnant woman and who is:
    - Not the parent or caretaker relative of an eligible child, or
    - Not an essential person
  - d. Had his/her needs considered in determining a lump sum period of ineligibility
  - e. Receives SSI/SSP, Refugee Resettlement Payment (RRP), or Foster Care
  - f. Is a sponsored alien whose needs are being met by a sponsoring agency or by a sponsor's deemed income
  - g. Is a spouse of an eligible child, living with the child in the senior parent's home, when there is no child in common for whom deprivation exists
2. Excluded for Cause/Sanctioned

'Excluded for cause' is essentially failure to cooperate with a program requirement (i.e. failure to cooperate with FSD or Employment Services). These rules apply to the Foster Care Federal eligibility determination only if the AU is in receipt of CalWORKs/AFDC in the month of petition.

Use the FC 3 to compute income deemed to the AU from a person excluded for cause. Do NOT allow the individual's Needs (MBSAC) or MBSAC differential if the person is excluded for 'cause'.

A person excluded from the AFDC AU for cause is:

- a. A parent, pregnant woman, or caretaker relative who refuses to assign support rights or fails to cooperate in the:
  - Identification and location of the absent parent
  - Establishment of paternity



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- Enforcement of the support obligation
- b. A person who fails to cooperate in the verification of his/her alien status
  - c. A mandatory Employment Services (ES)/GAIN registrant who fails without good cause to meet ES/GAIN program requirements. When the registrant is the principal earner, the second parent is also ineligible unless he/she is participating with ES/GAIN.
  - d. An applicant, recipient, or a child whose parent, caretaker relative or legal guardian refuses to furnish or apply for a Social Security Number (SSN), or fails to cooperate in securing or verifying a SSN
  - e. A striker who is not a caretaker relative
  - f. An applicant or recipient who is NOT the principal earner and who:
    - Is apparently eligible to and does not apply for UIB, or
    - Does not accept any UIB to which EDD determines he/she is eligible.
  - g. An applicant or recipient who is not the principal earner and who is not exempt from ES/GAIN or EDD-JS, and who fails without good cause to meet the conditions of eligibility for UIB
  - h. An applicant or recipient who has been disqualified for a specific amount of time for committing an Intentional Program Violation (IPV)
- R. Stepparents, Federal Eligibility Determination
1. Overview/Usage

When determining Federal eligibility for Foster Care, EWs must follow the 7/16/96 AFDC rules. Stepparent deemed income rules are provided for reference to determine if, in the month of petition, the family 'would have been eligible under 7/16/96 AFDC rules had an application been made'.

The CalWORKs rules regarding the composition of the AFDC AU and the



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stepparent unit are the same as they were under the AFDC program on 7/16/96. However, effective 1/1/98, the stepparent deemed income computation under the CalWORKs Program changed. Therefore, when Foster Care EWs are determining if a stepparent family is Federally eligible, use the ‘*Stepparent/Senior Parent Worksheet*’, CA 342 to determine income to be deemed to the AFDC AU.

2. General Information

Regulations concerning income to the AU from a stepparent apply ONLY when the stepparent resides in the same household with the aided children or unaided unborn and the parent of that child(ren), but neither the stepparent nor any of the stepparent’s natural or adoptive children are in the AU.

The caretaker relative parent cannot choose to be excluded from the AU and then be in the Stepparent Unit. The caretaker relative must be in the AU unless excluded by law or for cause.

**NOTE:** If the caretaker relative parent is excluded for cause, then his/her needs cannot be met by either the Stepparent Unit or the AU.

IF THE STEPPARENT...	THEN...
Is included in the AU	The total net nonexempt income of the stepparent is income to the AU for both the grant and eligibility computation
Is NOT in the AU but one or more of the stepparent’s child(ren) is in the AU AND the stepparent is either an excluded parent or an ineligible alien parent	Complete the CA 342, Excluded Parent Worksheet, to determine the amount of income to be counted toward the determination
Is not in the AU and none of the stepparent’s children are in the AU	The stepparent computation (CA 342) must be used to determine any income to be counted to the AU

**NOTE:** If an unaided step-sibling and/or unaided half-sibling or an eligible child has their own income, that income is NOT counted to the AU. Allow the needs of the unaided step-sibling or half-sibling if the stepparent is contributing to the AU.

3. Definition, Stepparent Unit





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Persons Included in the Stepparent Unit (SPU):

The Stepparent Unit may include, in addition to the stepparent (or IRCA parent), any of the following individuals related to the stepparent unless that individual is required to be in the AU:

**NOTE:** The stepparent deeming provisions are used when the Ineligible Alien Parent is the natural or adoptive parent of an aided child, and is being naturalized under the Immigration Reform and Control Act (IRCA) but does not yet have appropriate alien status to be included in the AU.

- a. The spouse of the stepparent
- b. Any separate children of the stepparent
- c. Any children the stepparent has in common with the spouse, and
- d. Any other persons residing in the home who may be claimed by the stepparent as dependents for Federal income tax purposes

Persons NOT Included in the SPU:

An individual may NOT be included in the SPU if that individual is:

- a. Included in an AFDC AU, or
  - b. Excluded from the AFDC AU for cause (e.g. sanctioned or refused to meet a condition of eligibility)
4. Stepparent Households, AU Composition

Follow these rules when determining who to include in the AU and the Stepparent Unit:

WHEN there are...	THEN...
No common children and the stepparent does NOT have separate children,	<ul style="list-style-type: none"> <li>• The AU includes the eligible children and the parent of those children</li> <li>• The Stepparent Unit consists of the stepparent</li> <li>• The stepparent may choose to be in the AU as an essential person</li> </ul>
No common children but each	<ul style="list-style-type: none"> <li>• One of the caretaker parents and his/her child(ren) are in the AU</li> </ul>

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<p>caretaker parent has separate child(ren),</p>	<ul style="list-style-type: none"> <li>• The other caretaker parent with his/her separate child(ren) may choose to be in the AU as there is deprivation for his/her separate child(ren) and he/she is married to the other caretaker</li> <li>• If the other caretaker parent chooses NOT to be in the AU, he/she and the separate child(ren) will be in the Stepparent Unit The stepparent may choose to be in the AU as an essential person and choose NOT to include his/her separate child(ren) in the AU. Therefore, there is no 'Stepparent Unit' as the stepparent is in the AU. This option can be an advantage when the stepparent's child has his/her own income</li> </ul>
<p>Children in common who have deprivation, the basis for the AFDC case is the separate child(ren) and his/her parent who must be in the AU,</p>	<ul style="list-style-type: none"> <li>• The common child(ren) must be in the AU as a half-sibling who has deprivation</li> <li>• The stepparent must be in the AU as a parent of the common child(ren)</li> <li>• The separate child(ren) of the stepparent MUST be in the AU, as they are half siblings</li> </ul>
<p>Children in common who have NO deprivation,</p>	<ul style="list-style-type: none"> <li>• One parent and his/her eligible child(ren) for whom aid is requested are in the AU</li> <li>• The Stepparent Unit consists of the stepparent, the common child and the separate child of the stepparent</li> <li>• Since there is deprivation for the separate child(ren) of the stepparent, the stepparent and his/her separate children may choose to be in the AU rather than the Stepparent Unit</li> <li>• There is only one AU, as the caretaker relatives are married to each other</li> <li>• The common child(ren) CANNOT be in the AU as he/she has no deprivation; and, no income from the members of the AU can be deemed to meet the needs of the common child(ren)</li> </ul>

5. Needs for the Stepparent Unit

The 7/16/96 AFDC MBSAC is used in determining the ability of the excluded stepparent to support the SPU. The stepparent is also allowed any appropriate deductions from any income received.

6. Lump Sum Income

The lump sum regulations do not apply when the lump sum income is received by the stepparent who is living in the home but who is not aided, or to an individual who is excluded by law.

7. Deemed Income Computation

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The CA 342 is used to compute deemed income which is available to the AFDC AU from the stepparent. Follow these steps:

STEP	ACTION
1.	Determine the stepparent's net nonexempt income
2.	Subtract the \$90 Standard Work Expense Disregard, if the income is earned
3.	Deduct any amounts actually paid by the stepparent to persons not living in the home who are, or could be, claimed as dependents in the determination of Federal personal income tax liability
4.	Deduct any child support or spousal support payments made by the stepparent to persons not living in the home
5.	Deduct the 7/16/96 MBSAC amount for members of the SPU, plus any AFDC Special Needs
6.	Count any remaining income from the stepparent as deemed income to the AFDC AU

S. Ineligible Alien Parent, Federal Eligibility Determination

1. Overview/Usage

When determining Federal eligibility for Foster Care, EWs must follow the 7/16/96 AFDC rules. Ineligible Alien Parent deemed income rules are provided for reference, as needed, to determine, if, in the month of petition, the family 'would have been eligible under 716/96 AFDC rules had an application been made'.

The CalWORKs rules regarding the composition of the AFDC AU and the Ineligible Alien Parent Unit (IPU) are essentially the same as they were under the AFDC Program on 7/16/96. However, effective 1/1/98, the Ineligible Alien Parent income computation under the CalWORKs Program has changed. Therefore, when Foster Care EWs are determining if a family with Ineligible Alien Parent(s) is Federally eligible, use the CA 342 to determine income deemed to the AU from the Ineligible Alien Parent.

2. General Information

Regulations' concerning income to the AU from an Ineligible Alien Parent apply ONLY when the Ineligible Alien Parent is the natural or adoptive parent AND



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resides in the home with his/her aided children, AND, is NOT eligible for assistance because he/she is not a citizen or eligible alien.

**NOTE:** Use the stepparent deeming provisions when the Ineligible Alien Parent is the natural or adoptive parent of an aided child, and is being naturalized under the Immigration Reform and Control Act (IRCA) but does not yet have appropriate alien status to be included in the AU. There will be very few, if any, aliens to whom this is applicable. (Refer to ‘Stepparent, Federal Eligibility Determination’, page 31.)

The caretaker relative cannot chose to be excluded from the AU and then be in the Ineligible Alien Parent Unit. The caretaker relative must be in the AU unless excluded by law or for cause.

**NOTE:** If the caretaker relative is excluded for cause, then the needs of that individual are not included in either the IPU or the AFDC AU.

3. Unmarried Parents

In the CalWORKs Program, effective 1/1/98, when Ineligible Alien parents are unmarried and both unmarried parents are in the home with their CalWORKs eligible child(ren), only one IPU is established which includes the needs of all other appropriate persons in the home.

For the Foster Care determination of Federal eligibility, when the Ineligible Alien parents are unmarried and both unmarried parents are in the home with their AFDC eligible child(ren), use the following chart to determine the Ineligible Alien Parent (IPU) composition.

IF...	THEN...
Each ineligible parent has separate income,	Create two IPUs—each one containing an ineligible alien parent and using that parent’s income
Only one parent has income,	Create only one IPU—containing both ineligible alien parents
There are also undocumented alien children in common in the home	The needs of those children in common must be met by the IPU which has the most income. The needs of any separate undocumented alien children can only be met in the IPU of that separate child’s parent

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## 4. Ineligible Alien Parent Unit

Persons Included in the IPU:

The Ineligible Alien Parent Unit (IPU) may include, in addition to the Ineligible Alien Parent, any of the following individuals related to the Ineligible Alien Parent *unless* that individual is required to be in the AFDC AU:

- a. The spouse of the Ineligible Alien Parent
- b. Any separate children of the Ineligible Alien Parent
- c. Any children the Ineligible Alien Parent has in common with the spouse
- d. Any other persons residing in the home who may be claimed by the Ineligible Alien Parent as dependents for Federal income tax purposes

Persons NOT Included in the IPU:

An individual may NOT be included in the IPU if that individual is:

- a. Included in an AFDC AU, or
- b. Excluded from the AFDC AU for cause (e.g. sanctioned or refused to meet a condition of eligibility)

## 5. Needs for IPU

The 7/16/96 AFDC MBSAC differential is used in determining the ability of the Ineligible Alien Parent to support the IPU. The Ineligible Alien Parent is also allowed the appropriate deductions from any income received.

## 6. Lump Sum Income

The lump sum regulations do not apply when the lump sum income is received by:

- a. The Ineligible Alien Parent who is living in the home but who is not aided
- b. An individual who is excluded by law

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7. Deemed Income Computation

The CA 342 is used to compute the income deemed to the AFDC AU from the Ineligible Alien Parent. Follow these steps:

STEP	ACTION
1.	Determine the Ineligible Alien Parent's net nonexempt income
2.	Subtract the \$90 Standard Work Expense Disregard, if the income is earned
3.	Deduct any amounts actually paid by the Ineligible Alien Parent to persons not living in the home who are, or could be, claimed as dependents in the determination of Federal personal income tax liability
4.	Deduct any child support or spousal support payments made by the Ineligible Alien Parent to persons not living in the home
5.	Deduct the 7/16/96 MBSAC amount for members of the IAPU, plus any AFDC Special Needs
6.	Count any remaining income from the Ineligible Alien Parent Unit as deemed income to the AFDC AU

**NOTE:** The CA 342 Worksheet may be used by EWs to identify who is in the Ineligible Alien Parent Unit, who is in the AFDC AU, and the amount of income deemed from the Ineligible Alien Parent to the AFDC AU.

T. Time on Aid, CalWORKs

Effective 1/1/98, the CalWORKs Program imposes a 60-month cumulative lifetime limit on receipt of cash assistance by the aided parent or needy caretaker relative of an aided child. The effective start date for the Federal 60-month clock can be earlier than 1/1/98 if cash aid (TANF) was received after 11/1/96 in another state. Only the parent(s) that have reached 60 months of CalWORKs eligibility are ineligible. The children can continue to receive CalWORKs, if otherwise eligible.

These rules do NOT impact the Federal eligibility determination for Foster Care. AFDC rules on 7/16/96 apply as AFDC was NOT time limited at that time. The aided parent/needy caretaker relative would have remained eligible.

II. REFERENCE

EAS 41-440, Unemployed Parent Deprivation (as of 7/1/96)

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EAS 44-100, Income  
EAS 44-111, Payments Excluded or Exempt from Consideration  
EAS 45-202, Federal AFDC-FC Program  
EAS 45-202.1, Federal Deprivation  
EAS 45-203, State AFDC-FC Program  
EAS 45-203.1, State Deprivation  
ACL 92-26, AFDC-FC Federal Eligibility When Mother is Patient or Inmate at Time of Removal  
ACL 94-15, Federal AFDC-FC Program and the AFDC-Family Group/Unemployed (FG/U)  
Linkage Requirement  
ACL 98-01 Impact of Federal and State Welfare Reform on the AFDC-FC Program

III. FORMS

CA 342, Stepparent/Senior Parent Worksheet  
FC 3, Determination of Federal AFDC-FC Eligibility  
FC3 CC, POEM Worksheet