

# ORANGE COUNTY SOCIAL SERVICES AGENCY GENERAL RELIEF REGULATIONS MANUAL

## SECTION 110: ADMINISTRATIVE REVIEW

EFFECTIVE: February 2022

### .1 NOTICES OF ACTION

.a Negative action requires written notice to the applicant/recipient.

Written NOAs shall be issued and mailed or handed to applicants or recipients whenever any action affecting eligibility, duration of benefits or benefit levels regarding an applicant or recipient is taken by SSA.

All written notices shall be made available in alternative formats (e.g., large print, audio, Braille, as provided in SSA ADA policy D19 and CDSS Civil Rights Plan provisions) to applicants or recipients who need them for effective communication. Determination of particular alternative formats will be made at the time of application and as needed.

Applicants who are denied assistance will be provided a NOA. Advance notice is not required when aid is denied. The effective date is the date the NOA is issued.

When an application is approved for continuing benefits, an approval NOA must be provided. The NOA must specify how the grant was calculated.

When an application is approved for a specific period of time, an approval notice will be issued identifying the period of eligibility. With respect to Employable recipients, the period of eligibility shall not exceed ninety (90) days. For all other recipients, the period of eligibility shall not exceed six (6) months.

The NOA in cases of discontinuance or grant reduction must be provided at least ten (10) days prior to the effective date of action except as noted below in .1.c and .1.d.

The date of the NOA shall prevail regardless of the method of delivery. Applicants/recipients who use a designated address or the SSA Regional office P.O. Box for SSA mailing of notices and other material retain the responsibility of retrieving any correspondence the Agency may initiate.

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### .1 NOTICES OF ACTION (cont'd)

- .b The NOA will advise the applicant/recipient of the reasons for the proposed adverse action, the applicable regulations, the right to appeal and that aid may be paid pending the hearing when an appeal is filed within thirty (30) days of the date of the NOA and prior to the effective date of termination or reduction. See 110.3. Sanction notices shall also specify the duration of the period of ineligibility.
- .c The County shall send adequate notice no later than the effective date of the action or the date that ineligibility was determined, and the recipient retains the right to appeal provided the requirements of Section 110.2 are met. Timely (ten (10) days) notice is not required in the following instances:
  - (1) The Agency has factual information confirming the death of a member of the GR-EU.
  - (2) The whereabouts of the GR-EU are unknown (i.e. where Agency mail has been returned by the Post Office, indicating no known forwarding address).
  - (3) The Agency receives reliable information that some or all of the GR-EU has moved out of Orange County.
  - (4) A member of the GR-EU has been admitted or committed to an institution such as a medical facility or jail.
  - (5) The Agency confirms that the effective date of other public cash assistance precedes or is within the ten (10) day advance notice period.
  - (6) The recipient has voluntarily completed a ten (10) day waiver of NOA requirements and it is filed in the case record.
  - (7) The Agency has previously issued a timely discontinuance NOA for either non-receipt or an incomplete periodic report and the reason for the discontinuance remains the same.
  - (8) The recipient has a change in classification between Employable and Incapacitated/CE, and the Agency has previously issued a timely discontinuance NOA
- .d A NOA is not required when the GR benefits are discontinued at the conclusion of a time limited eligibility period of thirty (30) days or less. The approval notice shall include the period of eligibility.

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### **.2 APPEALS**

Applicants/recipients may request a conference with representatives of the County GR Program to discuss a NOA. A conference does not affect the applicant's/recipient's right of appeal.

Applicants/recipients may appeal an action directly to the Appeals Unit.

**a.** The appeal must:

- (1)** Be requested in writing.
- (9)** State the reasons for disagreement with the action.
- (10)** Be signed and dated.
- (11)** Be filed within thirty (30) days of the NOA date.

All hearing requests shall be date stamped on the day the request is received in a Social Services Office.

**.b** The filing date will be determined as follows:

- (1)** The postmark date on the envelope if the request is mailed.
- (2)** The date stamp on the hearing request if the request is hand delivered to the County.
- (3)** The date the request was signed if the date cannot be determined in (1) or (2) above.
- (12)** Three (3) calendar days before the request was stamped received by the County if the date cannot be determined by the methods described in (1), (2) or (3) above.

If the last date for the performance of any act required in this section is a day that county offices are closed, the period shall be extended to the next working day.

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### .2 APPEALS (cont'd)

- .c The claimant may represent himself during all aspects of the hearing process or may be represented by an attorney, an authorized representative or any other person whom he or she designates by signing a written statement.

A representative for the claimant must be authorized in writing prior to the hearing if the claimant does not attend the hearing.
- .d The claimant and authorized representative shall have the right to review the case record and/or any other evidence used in making a determination of eligibility. Such review shall be made available prior to the hearing.
- .e Appeals shall be conducted in accordance with agency procedures. All testimony shall be given under oath or by affirmation.
- .f Witnesses may only testify at the hearing in the presence of the claimant or authorized representative.
- .g The claimant or authorized representative shall have the right to testify, present witnesses, present written documentation and cross-examine witnesses.
- .h Agency staff and any other persons participating in any action leading to the request for an appeal shall appear at the hearing when their presence is requested by Appeals staff, by the claimant, the authorized representative, or when they can provide testimony relative to the merits of the case.
- .i Decisions in GR appeals are adopted by the Appeals Manager within sixty (60) days from the filing date.

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### .2 APPEALS (cont'd)

- .j A request for hearing or portion thereof shall be dismissed by a written letter when:
  - (1) The issue is not within the jurisdiction of the County appeals process.
  - (2) The request for hearing is filed beyond the time limit set forth in Section 110.2.
  - (3) The Hearing Officer determines at the hearing that the claimant or authorized representative is unwilling to present the case.
  - (4) The Hearing Officer determines that the identical issue has been the subject of a previous hearing involving the claimant.
  - (5) The requestor of the hearing does not have standing to request the hearing.
  - (6) The sole issue for the hearing is the repayability of the GR aid paid.
  - (6) The claimant abandons the hearing by failing to attend the hearing.
- .k If the appeal is denied or dismissed, the claimant may file a written request for a review by the Director of the Orange County SSA or designee within fifteen (15) days of the date the decision was adopted and mailed to the claimant. The filing date shall be determined in accordance with Section 110.2. Persons will be informed within twenty-one (21) calendar days if a request for review by the Director is granted. If a response is not received within this time period, the request shall be deemed denied.

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### **.3 AID PAID PENDING**

- .a** When the recipient files an appeal within thirty (30) days of the date of the notice of adverse action and prior to the effective date of the NOA, aid shall be continued in the amount that the recipient would have been paid according to Agency procedure, except that aid paid pending shall not be paid or shall cease in situations identified in Section 110.3.d.
- .b** Recipients who file an appeal and receive aid paid pending shall be required to comply with and cooperate with all GR eligibility and program requirements, pending the appeal decision.
- .c** Aid Paid Pending shall be paid throughout the Appeal process until the final decision is in effect, except that aid paid pending shall not be paid or shall cease in situations identified in Section 110.3.d. Any aid paid during the appeal decision becomes part of the repayable GR amount. Aid paid during an appeal is adjustable from future GR grants when the decision supports the County's action.
- .d** Exceptions - Aid Paid Pending (APP) shall not be paid or shall cease when:
  - (1)** The claim is withdrawn or abandoned.
  - (2)** The claim is denied or dismissed.
  - (3)** The Hearing Officer determines that the issue is one of law or regulation or change in law or regulation and not of incorrect application of the law or regulation.
  - (4)** The claimant requests that the hearing be postponed past sixty (60) days from the filing date.
  - (5)** The claimant and/or the authorized representative failed to appear, unless good cause is established.
  - (6)** A final decision has been adopted.
  - (7)** Negative action unrelated to the hearing issues is proposed after an appeal has been filed and the claimant does not file a timely appeal on the new issue.
  - (8)** The Employable eligibility period expires.
  - (9)** **Deleted effective 05-01-2020**
  - (10)** Notwithstanding the above limitations, the Appeals Manager has sole discretion to extend aid paid, pending the outcome of the hearing.

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### .4 REPAYABILITY

The W & I Code permits counties to request repayment of GR payments made from county funds. At the time of discontinuance, the repayable amount will be adjusted by monies received from any outstanding liens, IA Reimbursement, monies credited from participation in the GRWP, or monies deducted due to EBT expungements. Each application for GR shall include the applicant's agreement to repay assistance issued under the program and waive statute of limitations pursuant to CA Civil Code 360.5.

When an applicant/recipient has a claim for Workers' Compensation, lawsuit, or other similar claim pending, a lien shall be signed against that claim for any aid extended. Applicants/recipients shall sign a form authorizing payment to the County for GR received while an SSI/SSP application is pending.

Failure of the applicant/recipient to sign a repayment agreement and/or a lien shall result in denial or discontinuance of GR benefits.

The total aid granted, either continuously or intermittently including any aid paid pending an appeal is repayable. Repayment of all aid paid is expected. The County shall also pursue recovery from the legal sponsor of a non-citizen for aid paid to the non-citizen during the time in which the sponsor has agreed, in writing, to provide for the non-citizen. The County may require the legal sponsor of the non-citizen applicant/recipient to sign a written agreement to repay any aid provided to the non-citizen pursuant to the W & I Code 17001.6(a).

The applicant/recipient shall be provided a NOA specifying the amount of repayment and specifically explaining that a right to a hearing is not available regarding the county's right to repayment, however, a hearing may be requested on the amount of repayment.

### .5 Deleted effective 01-01-2014.

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### .6 UNDERPAYMENTS

When a GR-EU is underpaid, a supplement will be issued promptly upon discovery of the underpayment. Administrative underpayments which occur more than sixty (60) days prior to the date of discovery are not correctable unless ordered by an appeal decision.

The date of discovery is the earlier of the following dates: (1) the date the Agency is notified of or discovers the underpayment or (2) the date the claimant requests the correction. If the agency has lost contact with the GR-EU and is unable to issue a supplement within sixty (60) days from the date of discovery, no supplemental payment shall be made unless ordered by an appeal decision.

The amount of an underpayment shall be established in accordance with the regulations and grant amounts in effect at the time the underpayment occurred. An underpayment may be used to offset an overpayment. Supplemental payments issued to correct an underpayment are not to be considered a resource or currently available income in the month paid or in the following month.

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