

Questions - Review of SMI Management Bulletins and Overview of 12-month Eligibility Provisions

NOTE: The responses below were provided by CDE EESD staff during a webinar on July 28, 2017 posted on CAPPA's website.

1. Q: Are the increase in the State Median Income (SMI) and 12-month initial eligibility determination enacted as part of the 2017-18 State Budget fully implemented July 1, 2017?

A: Unless otherwise specified, the provisions enacted in the Budget Act of 2017 became effective on July 1, 2017. The department is in the process of releasing additional guidance through management bulletins. The Budget Act of 2017 includes language that holds contractors harmless for provisions surrounding implementation of these provisions in the Budget Act. Errors will be held harmless

2. Q: Is the field not to implement 12-month eligibility re/determination until CDE releases all of the Management Bulletins?

A: The 12-month eligibility became effective July 1, 2017 pursuant to Education Code 8263 (h):

"8263 (h) (1) Except as provided in paragraphs (2) to (4), inclusive, upon establishing initial eligibility or ongoing eligibility for services under this chapter, a family shall be considered to meet all eligibility and need requirements for those services for not less than 12 months, shall receive those services for not less than 12 months before having their eligibility or need recertified, and shall not be required to report changes to income or other changes for at least 12 months.

(2) A family that establishes initial eligibility or ongoing eligibility on the basis of income shall report increases in income that exceed the threshold for ongoing income eligibility as described in subdivision (b) of Section 8263.1, and the family's ongoing eligibility for services shall at that time be recertified.

(3) A family that establishes initial eligibility or ongoing eligibility on the basis of seeking employment shall receive services under this chapter as follows:

(A) If seeking employment is the basis for initial eligibility, the family shall receive services under this chapter for not less than six months.

(B) If, at the time of recertification, the only basis established for ongoing eligibility is a parent's need to seek employment, the family shall receive services for no less than six months.

(4) A family may at any time voluntarily report income or other changes. This information shall be used, as applicable, to reduce the family's fees, increase the family's services, or extend the period of the family's eligibility before recertification.

CDE is working to identify regulatory requirements that conflict with this provision and will provide additional information via the management bulletins.

Education Code 8263 (i) specifies the hold harmless clause. Any errors or improper payments due to the family circumstances during this time period – contractors will be held harmless.

3. Q: Has CDE determined a stakeholder process to develop recommendations regarding the implementation of the 12-month re/determination process?

A: The CDE will begin the rule making process once the Management Bulletins to develop 12-month eligibility have been issued. As part of the process the CDE will convene a work group consisting of parents, advocates, department staff, child development program representatives, and other stakeholders to develop recommendations. CDE is committed to ensuring that the workgroup represents the statewide diversity of CA's early care and education system. More information will be forthcoming in the Fall of 2017.

4. Q: What should we do for those families that we disenrolled prior to July 1 due to being over income; however with the new income guidelines now are eligible?

A: Unfortunately, because the increase of the SMI does not become effective until July 1st, 2017, any families dis-enrolled for being over-income before that date may only be re-enrolled in enrollment priority order. The contractor may reconsider the dis-enrollment action anytime during the appeal process, as long as the family is still receiving services. If an appeal for any action related to dis-enrollment for income eligibility is received the EESD the appeal coordinator will contact the agency to provide an opportunity to rescind the Notice of Action.

5. Q: When does the 12-month initial certification begin if the family is a transfer from Stage 1?

A: CDE will be addressing this question in their CalWORKs transfer Q&A (MB 17-02) segment. Being a seamless transfer question, this question will be answered at a later date. Currently on pause.

6. Q: Will clients enrolled as students have to update their "Need" information at the end of the school term in order to remain eligible for the program they are on? This question arose because most school terms (semesters, quarters, etc.) come with a definite beginning and end date.

A: In accordance with Education Code 8263 (h):
"8263 (h) (1) Except as provided in paragraphs (2) to (4), inclusive, upon establishing initial eligibility or ongoing eligibility for services under this chapter, a family shall be considered to meet all eligibility and need requirements for those services for not less than 12 months, shall receive those services for not less than 12 months before having their eligibility or need recertified, and shall not be required to report changes to income or other changes for at least 12 months.

(2) A family that establishes initial eligibility or ongoing eligibility on the basis of income shall report increases in income that exceed the threshold for ongoing income eligibility as described in subdivision (b) of Section 8263.1, and the family's ongoing eligibility for services shall at that time be recertified.

(3) A family that establishes initial eligibility or ongoing eligibility on the basis of seeking employment shall receive services under this chapter as follows:

(A) If seeking employment is the basis for initial eligibility, the family shall receive services under this chapter for not less than six months.

(B) If, at the time of recertification, the only basis established for ongoing eligibility is a parent's need to seek employment, the family shall receive services for no less than six months.

(4) A family may at any time voluntarily report income or other changes. This information shall be used, as applicable, to reduce the family's fees, increase the family's services, or extend the period of the family's eligibility before recertification.

7. Q: If a family enrolls or recertifies and their Need for Services is limited (i.e. School ends in December or Statement of Incapacity expires in 6 months), families will still need to have a new documented need for child care when that need expires, correct? Even if it is less than 12 months?

A: Again, answer is same as above (reference Ed Code 8273): Once you establish eligibility, the family shall be considered to meet all eligibility and need requirements. Those families should not be recertified or updated. There is no need for that. A family may voluntarily report changes to increase their service need or reduce their family fee. But there is no requirement that we terminate or change their schedule unless requested.

8. Q: For families currently receiving services, do we recertify each family when they come in to verify a variable work schedule or change in need?

A: There is no need to update or recertify a family's need or eligibility before the 12 months recertification date. As previously stated Education Code 8263 (h) indicates that upon "establishing initial eligibility or ongoing eligibility for services under this chapter, a family shall be considered to meet all eligibility and need requirements for those services for not less than 12 months, shall receive those services for not less than 12 months before having their eligibility or need recertified, and shall not be required to report changes to income or other changes for at least 12 months." Except for the reasons previously stated.

9. Q: MB 17-08 references that a separate MB will be issued to address • State Median Income (Initial Certification) • Graduated Phase-out (Recertification) • Updated Income Rankings • Revised Family Fee Schedule • Minimum Twelve-Month Eligibility. Until such time, will agencies be held harmless if implementing consistent with the language of the budget act and agency developed policies?

A: Education Code 8263 (i) is the hold harmless clause, which specifies: "8263 (i) (1) Because a family that meets eligibility requirements at its most recent eligibility certification or recertification is considered eligible until the next recertification, as provided in subdivision (h), a payment made by a child development program for a child during this period shall not be considered an error or an improper payment due to a change in the family's circumstances during that same period."

Additionally, as has been past practice, the Field Services Office (FSO) will be providing technical assistance during contract monitoring reviews scheduled during the first year of implementation of policy changes.

10. Q: Agencies and providers are struggling with understanding about what to do with family fees. Now that the income guidelines are higher, family fees will be affected. However, without a family fee schedule, the entity responsible for collecting family fees is probably collecting an outdated amount. What is the guidance from CDE on this?
- A: We hope that the guidance provided during this webinar helped clarify. In summary, agencies should continue using the 2014 family fee schedule when enrolling families, until the new family fee schedule is released. Contractors will need to recalculate fees for all currently enrolled families that were assessed a fee using the 2014 family fee schedule. The effective date of the re- calculation shall be July 1, 2017. Contractors will issue credits or refunds for any overpayment of fees.
11. Q: Will agencies be held harmless for enacting the budget provisions until such time as CDE develops and releases MB guidance?
- A: Yes. In accordance with Education Code 8263 (i) (1) agencies are held harmless. Error and overpayments will not be looked at.
12. Q: With the release of the new Management Bulletins (MBs), when can we expect an updated summary of those MBs no longer in effect such as MB 11-06?
- A: MB that are superseded by newly released management bulletins will be identified and rescinded with the release of the new management bulletins. As we release MB's we will cite which MBs are no longer in effect and have been rescinded.
13. Q: The 2017-18 budget enacted language to allow alternative payment programs and centers to use digital forms to allow families to apply for services. This language coupled with the authorization to use digital signatures and storage of records electronically essentially allows contractors to operate electronically. How are the CDE field services, the GAU and the Audit Division going to approve this move?
- A: The Education Code authorizes contractors to use digital enrollment forms. There is no provision requiring the Department of Education's approval. A management bulletin providing additional guidance for electronic enrollment forms will be forthcoming.
14. Q: 12-month eligibility—if need changes, such as job search to employment, is a full recertification required, or can an addendum still be used to change/update the need. Will the 60 day maximum in a fiscal year remain for job search activities?
- A: In accordance with Education Code 8263 (h):
"8263 (h) (1) Except as provided in paragraphs (2) to (4), inclusive, upon establishing initial eligibility or ongoing eligibility for services under this chapter, a family shall be considered to meet all eligibility and need requirements for those services for not less than 12 months, shall receive those services for not less than 12 months before having their eligibility or need recertified, and shall not be required to report changes to income or other changes for at least 12 months.
- (2) A family that establishes initial eligibility or ongoing eligibility on the basis of income shall report increases in income that exceed the threshold for ongoing income eligibility as described in

subdivision (b) of Section 8263.1, and the family's ongoing eligibility for services shall at that time be recertified.

(3) A family that establishes initial eligibility or ongoing eligibility on the basis of seeking employment shall receive services under this chapter as follows:

(A) If seeking employment is the basis for initial eligibility, the family shall receive services under this chapter for not less than six months.

(B) If, at the time of recertification, the only basis established for ongoing eligibility is a parent's need to seek employment, the family shall receive services for no less than six months.

(4) A family may at any time voluntarily report income or other changes. This information shall be used, as applicable, to reduce the family's fees, increase the family's services, or extend the period of the family's eligibility before recertification.

Anything that conflicts with the above requirements is no longer valid.

15. Q: Family Fees could be reduced if family income drops for any reason, is a full recertification necessary or again can an addendum be used, or leave as is until recertification? Lowering fees could benefit the parent/family.
- A: Verification and documentation requirements under title V are still applicable. However, the information provided cannot be used to make any other changes to a family's service agreement. You cannot use that information to make a decrease to the hours in services.
16. Q: Self-Employment/Variable schedules/Cash only income are currently reviewed/updated every four months, will this requirement remain the same?
- A: Ed Code 8263 (h): emphasize on families not having to report changes for at least 12 months, with the exceptions noted. Seeking employment for not less than 6 months. As long as you are following the law, you should be fine. There are no updating requirements.
17. Q: How will this effect Limited Term Service Leave?
- A: CDE has not yet determined this. Additional guidance will be included in the MB.
18. Q: What type of monitoring, if any, will be required?
- A: Monitoring of the parent: 8263 (h) – we are not requiring submission of documentation other than what is provided in 8262.
19. Q: Will Management Bulletin 14-04 be rescinded as it gives direction to contact parents if their child care usage is not broadly consistent with what has been certified?
- A: As previously stated, MB that are superseded will be identified and rescinded with forthcoming MB's. 12 – Month eligibility MB will clarify. CDE is identifying what MB's conflict with Ed Code 8263. More information to come.

20. Q: If a family chooses to report a change in income to reduce their family fees, what action, if any is expected to be taken regarding the family's possible change in need (decrease in income due to fewer hours worked)?
- A: Pursuant to 8263 (h)(4) : A family may at any time voluntarily report income or other changes. This information shall be used, as applicable, to reduce the family's fees, increase the family's services, or extend the period of the family's eligibility before recertification.
Example: Family reports a change to reduce their family fees, this info cannot be used to reduce The family's service hours that they are receiving. If they are receiving full-day, you can reduce their fees, but not their services.
21. Q: It is clear families do not need to report changes in their income unless it exceeds 85% of the SMI, however, what actions are required when a family reports a family member entering or leaving the family unit that would impact the family fee/income calculations? (Family member leaving may increase fees, family member joining the family may decrease the fees).
- A: Pursuant to Ed Code to 8263 (h) (4) : A family may at any time voluntarily report income or other changes. This information shall be used, as applicable, to reduce the family's fees, increase the family's services, or extend the period of the family's eligibility before recertification.
- You can reduce family fees, but this information cannot be used to reduce hours of services that they have been approved for.
22. Q: Once a family is certified and chooses to report a change in need, what requirements are there to verify the need? Can parent's self-report changes without the agency verifying the need if the family is within their 12-month eligibility period?
- A: Pursuant to Ed Code 8263 (h)(4) : A family may at any time voluntarily report income or other changes. This information shall be used, as applicable, to reduce the family's fees, increase the family's services, or extend the period of the family's eligibility before recertification.
- Verification and documentation requirements under current Title 5 regulations are still applicable. However, the info provided cannot be used to make changes to any other family service agreement. Example: A family certified for part day care reports that they need full-time care. Agencies will verify and document the need in accordance with title V. However, this information cannot be used to increase a family fee. .
23. Q: Clarification is needed in the interim before Title 5 is updated on what actions agencies need to take when a family is certified for a certain amount of hours (based on need) and the family reports that they need more or less child care hours.
- A: Clarification will be provided in the forthcoming MB's. However, under 8263, parents may voluntarily report changes and those changes can only be used to: to reduce the family's fees, increase the family's services, or extend the period of the family's eligibility before recertification.
24. Q: Clarification is needed in the interim before Title 5 is updated on calculation of income (Section 18096) when a family who has unpredictable income self-reports a decrease in income. Do agencies continue to average the previous 3 – 12 months when that income may not be reflective of

the reported change? Updating a family's income based on the most current month reflecting the change would be most reflective on their "on-going" income.

A: Refer to Title V Section 18096 "calculation of income":

The contractor shall calculate total countable income based on income information reflecting the family's current and on-going income:

(a) Using an income calculation worksheet that specifies the frequency and amount of the payroll check stubs provided by the parent and all other sources of income pursuant to section 18078(q).

b) When income fluctuates because of:

(1) Agricultural work as referenced in section 18078(j)(1), by averaging income from the 12 months preceding the initial certification, an update of the application, or the recertification that establishes eligibility for services.

(2) Intermittent income as referenced in section 18078(j)(2), by averaging the intermittent income from the preceding 12 months by dividing by 12 and add this amount to the other countable income.

(3) Unpredictable income as referenced in section 18078(j)(3), by averaging the income from at least three consecutive months and no more than 12 months preceding the initial certification, an update of the application, or the recertification that establishes eligibility for services.

There is no requirement to update income calculation in that section. Because the 12-month eligibility supersedes the requirement the requirement to update an application, the income calculation shall only take place at certification and recertification.

Additionally, there is no requirement to update income every 3 months in the Title V Section 18086

(b) (D and C): (D) If the variability of the parent's employment is unpredictable and precludes the contractor from verifying specific days and hours of employment or work week cycles, specify on the application for services that the parent is authorized for a variable schedule for the actual hours worked, identifying the maximum number of hours of need based on the week with the greatest number of hours within the preceding four weeks and the verification pursuant to subdivisions (A), (B), or (C) above. Until such time as the employment pattern becomes predictable, need for services shall be updated at least every four months and shall be based on the requirements of subdivision (b) and the child care services utilized;

Because the 12-month eligibility supersedes any update requirements agencies will no longer be required to update the need every 4 months.

25. Q: If a family enrolls or recertifies and their Need for Services is limited (i.e. School ends in December or Statement of Incapacity expires in 6 months), families will still need to have a new documented need for child care when that need expires, correct? Even if it is less than 12 months?

A: Again "8263 (h) (1) Except as provided in paragraphs (2) to (4), inclusive, upon establishing initial eligibility or ongoing eligibility for services under this chapter, a family shall be considered to meet all eligibility and need requirements for those services for not less than 12 months, shall receive those services for not less than 12 months before having their eligibility or need recertified, and shall not be required to report changes to income or other changes for at least 12 months.

This is a paradigm shift, but it is to benefit families and children. Focus on continuity of services. We want to provide services to those families.

26. Q: Does 12-month eligibility apply to Stage 1?
A: CDE will collaborate with DPSS and will respond at a later time.
27. Q Does it apply to CalWORKs cash-aided families in Stage 2, despite their approved Welfare-to-Work activity?
A: Yes, applies to all Stage 2 families.
28. Q: Currently we update families when their Need for services will end before the next recertification due date (Student Parents, At-Risk/CPS, Parent Incapacity, etc.). Will we continue to do this, or will we leave it up to the parent to report a change a need?
A: “8263 (h) (1) Except as provided in paragraphs (2) to (4), inclusive, upon establishing initial eligibility or ongoing eligibility for services under this chapter, a family shall be considered to meet all eligibility and need requirements for those services for not less than 12 months, shall receive those services for not less than 12 months before having their eligibility or need recertified, and shall not be required to report changes to income or other changes for at least 12 months.
29. Q: For our student parents, will grades be collected at time of their 12-month recertification only? If so, how would we handle their probation period, if they don’t meet the minimum progress requirements?
A: Yes, grades will only be collected at time of recertification, 12-months
Additional information regarding probation will be answered in forthcoming MB’s.
30. Q: If a parent doesn’t report they lost their job, and end up using care for job search activities, for more than six months or more than 30 hours per week, is that considered an overpayment?
A: As a reminder Ed Code (h) (1) Except as provided in paragraphs (2) to (4), inclusive, upon establishing initial eligibility or ongoing eligibility for services under this chapter, a family shall be considered to meet all eligibility and need requirements for those services for not less than 12 months, shall receive those services for not less than 12 months before having their eligibility or need recertified, and shall not be required to report changes to income or other changes for at least 12 months.

Families seeking employment shall not receive services for not less than 6 months. So you can serve them for up to 12 months, but not less than 6 months

Additional information will come with the release of the MB’s.

As a reminder, agencies are held harmless, in accordance with Ed Code 8263 (i) (1) Because a family that meets eligibility requirements at its most recent eligibility certification or recertification is considered eligible until the next recertification, as provided in subdivision (h), a payment made by a child development program for a child during this period shall not be considered an error or an improper payment due to a change in the family's circumstances during that same period.”

31. Q: If a parent calls to report a change in income that puts them in family fee range, or changes their current family fee, do we update the case and apply the new family fee?

A: Again, in accordance with 8263 (h)(4) (4) A family may at any time voluntarily report income or other changes. This information shall be used, as applicable, to reduce the family's fees, increase the family's services, or extend the period of the family's eligibility before recertification.

Info can be used to reduce fees, but reduce authorized hours of care.

32. Q: In Shared Custody cases, will we continue to provider services ONLY while the child is in the care of the custodial parent?

A: Issue will addressed in forthcoming MB.

33. Q: When the attendance forms show that care is different from what has been certified/approved, what is our responsibility? Do we call the parent to ask what's changed and why, or do we leave it up to the parent to report?

A: Additional information will be provided.

Be reassured that you will be held harmless in accordance with Ed Code 8263 (i) (1) Because a family that meets eligibility requirements at its most recent eligibility certification or recertification is considered eligible until the next recertification, as provided in subdivision (h), a payment made by a child development program for a child during this period shall not be considered an error or an improper payment due to a change in the family's circumstances during that same period."

34. Q: Should we approve a flexible schedule of child care hours to allow more flexibility to the parent/reimbursement to the provider, so updates aren't needed as often?

A: Again, with the new regulation, updates are not required. Using existing regulations for certifying need with unpredictable schedule, the response above applies. Schedule is good for 12 months.

35. Q: We don't collect income documentation from cash-aided parents. Should we regularly verify (on our own) that they are still cash-aided, when the family would otherwise be in family fee range, or over the 85th percentile of the SMI?

A: In accordance with Ed Code 8263 (a)(1)(A) : The Superintendent shall adopt rules and regulations on eligibility, enrollment, and priority of services needed to implement this chapter. In order to be eligible for federal and state subsidized child development services, families shall meet at least one requirement in each of the following areas:

(A) A family is (i) a current aid recipient, (ii) income eligible, (iii) homeless, or (iv) one whose children are recipients of protective services, or whose children have been identified as being abused, neglected, or exploited, or at risk of being abused, neglected, or exploited.

85% of the SMI only applies to families whose eligibility is based on income.