CALFRESH (CF) PROGRAM
REQUEST FOR POLICY/REGULATION INTERPRETATION

INSTRUCTIONS: Complete items 1 - 10 on the form. Use a separate form for each policy interpretation request. If additional space is needed, please use the second page. Be sure to identify the additional discussion with the appropriate number and heading. Retain a copy of the CF 24 for your records.

- Questions from counties, including county Quality Control, must be submitted by the county CalFresh Coordinator and may be submitted directly to the CalFresh Policy analyst assigned responsibility for the county, with a copy directed to the appropriate CalFresh Policy unit manager.
- Questions from Administrative Law Judges may be submitted directly to the CalFresh Policy analyst assigned responsibility to the county where the hearing took place, with a copy of the form directed to the appropriate CalFresh Bureau unit manager.

1. RESPONSE NEEDED DUE TO:
   - ☐ Policy/Regulation Interpretation
   - ☐ QC
   - ☑ Fair Hearing
   - ☐ Other:

5. DATE OF REQUEST: 1//3/2015
   NEED RESPONSE BY: asap

6. COUNTY/ORGANIZATION: Yolo County

7. SUBJECT: correctness of overissuance

2. REQUESTOR NAME:

3. PHONE NO.:

4. REGULATION CITE(S): ACL 12-25

8. REFERENCES: *(Include ACL/ACIN, court cases, etc. in references)*
   NOTE: All requests must have a regulation cite(s) and/or a reference(s).
   ACL 12-25

9. QUESTION: (INCLUDE SCENARIO IF NEEDED FOR CLARITY):

The judge upheld a $1009 CF o/i for the period of Dec 2014-Feb 2105. It is undisputed that the county received the claimant's Oct 2014 SAR7 on Nov 13, 2014 on which she reported her husband's SSDI, as well as her $935/monthly gross earned income, her first check in her new job, answered "yes" to question #10, and wrote: "on-call substitute teacher - huge variables. see previous work." The evidence indicates that the claimant forgot to attach her paycheck stub, but it is also undisputed that the county did not process the Oct SAR7 until February, at which point it asked the claimant for her paycheck stub and determined the claimant had been overissued benefits. The judge asked at the hearing whether the county attempted to determine what the claimant's income was since she had indicated on her SAR7 that her income fluctuated. The county rep responded that, at that point, it was processing the claimant's SAR7 three months late. She provided no testimony about what the county did in conformity with ACL 12-25. The claimant and her husband testified at the claimant's income as a teacher averaged about $1000/month in Dec through Feb. Their dispute was (cont'd below)

10. REQUESTOR'S PROPOSED ANSWER:

with the fact that they were being required to repay an o/i that was caused by the county, and that they would never have accepted c/f benefits if they knew they were not entitled to them. They would have also provided the claimant's Oct paycheck if the county had asked for it, and they weren't given that opportunity until it was too late.

ACL 12-25 provides the following in pertinent part:
Income is "reasonably anticipated" when the recipient and CWD determines it is reasonably certain that the recipient will receive a specified amount of monthly income in the SAR Payment Period. If the amount of income that will be received or when it will be received is uncertain, the portion of the AU/household's income that is uncertain shall not be counted. This definition applies to earned and unearned income.

11. STATE POLICY RESPONSE *(CFPB USE ONLY)*:

There is sufficient evidence to grant a rehearing to consider if on-call substitute teacher income can be reasonably anticipated.

FOR CDSS USE

DATE RECEIVED: 11/10/2015

DATE RESPONDED TO COUNTY/ALJ: 12/21/2015 (TJ)

CALFRESH (CF) PROGRAM
REQUEST FOR POLICY/REGULATION INTERPRETATION (Continued)

1. RESPONSE NEEDED DUE TO: ☐ Policy/Regulation Interpretation ☐ QC ☐ Fair Hearing ☐ Other:	5. DATE OF REQUEST:	NEED RESPONSE BY:
	6. COUNTY/ORGANIZATION:	
	7. SUBJECT:	
2. REQUESTOR NAME:	8. REFERENCES: *(Include ACL/ACIN, court cases, etc. in references)* **NOTE: All requests must have a regulation cite(s) and/or a reference(s).**	
3. PHONE NO.:		
4. REGULATION CITE(S):		

If the AU/household's monthly income fluctuates or they expect the income received in the Data Month to change in the upcoming SAR Payment Period, the CWD must attempt to find out the amount of income the AU/household find out the amount of income the AU/household reasonably expects to receive, in order to determine what income, if any, can be reasonably anticipated and used in the next SAR Payment Period's benefit calculation. Only that portion of income that the AU/household reasonably anticipates it will receive can be used in the benefit calculation.

Under Income and Eligibility Verification System Matches (IEVS)
When reconciling IEVS matches with reported income from the SAR Data Month or RD/RC, the CWD (cont'd below)

must take prospective budgeting rules into consideration. This includes taking into account information that was available at the time the determination of reasonably anticipated income would have been made, if reported timely. In other words, CWDs may not rely on actual income, if, at the time the mandatory report was due, the income could not have been reasonably anticipated. (All "reasonably anticipated" rules apply, even when retroactively considering the case for unreported information.)

There is also a section in ACL 12-25 on page 30 under "Benefit Determination Based on Fluctuating Income" that discusses what the county should do when investigating fluctuating income.
Based on the above, while the claimant is not disputing that she received as much as $935/gross income as a teacher in Dec 2014 through Feb 2015, ACL 12-25 indicates that an o/i should not be based on what the claimant's actual income was when determining her benefits retrospectively. It must be based on what her reasonably anticipated income was at the time she submitted her SAR7. In this case, the evidence indicates that the county did not attempt to determine the claimant's reasonably anticipated income in Feb, nor did the judge discuss ACL 12-25 in his decision or apply it to the facts of the case.

Because of this, it is this reviewer's opinion that the decision incorrectly upheld the county's o/i based on the evidence in the administrative record. While it is undisputed that the claimant failed to meet her reporting responsibilities by attaching a paycheck stub to her Oct SAR7, it was the county's failure to process her SAR7 timely that led to the o/i, not the claimant's failure to meet her reporting responsibilities. Additionally, what the claimant wrote on her Oct SAR7 about her fluctuating income would have triggered the county's responsibility to investigate her income had it processed her SAR7 timely, even if she had attached the paycheck stub.

If Program agrees with the above, the question is whether there is sufficient evidence to grant a rehearing on the record and find that the county failed to meet its burden of establishing that any of the claimant's Oct income as a substitute teacher should have been considered reasonably anticipated for the Dec through May SAR period, or whether there should be an in person rehearing for the purpose of developing the record on the issue of what the claimant's reasonably anticipated income was in October 2014.