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:
   - [x] Policy/Regulation Interpretation
   - [ ] QC
   - [ ] Fair Hearing
   - [ ] Other:

5. DATE OF REQUEST: 02/21/2014
   NEED RESPONSE BY: 02/28/2014

6. COUNTY/ORGANIZATION: County of San Diego/Health and Human Services Agenc

7. SUBJECT: Salary from an S Corporation

2. REQUESTOR NAME:

3. PHONE NO.:

4. REGULATION CITE(S): 63-502.111 and 63-502.131

8. REFERENCES: *(Include ACL/ACIN, court cases, etc. in references)*
   NOTE: All requests must have a regulation cite(s) and/or a reference(s).
   ACIN I-73-04 (question #15)

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

A CalFresh recipient (client) is starting an S Corporation (S Corp). An Internal Revenue Service (IRS) requirement is that the client would pay himself a reasonable salary as an employee of the S Corp. Thus, the client would take money from his personal checking account, loan it to the Corp, pay himself a salary and then return the money to his personal checking account.

Would this count as income under the CF Program?

Would the client be required to report the wages he pays himself from the S Corp? When the client files a tax return, his taxable income would be $0 as he would deduct the salary as a pass-through Corp loss (provided that the Corp had no other income and only the loss due to the client's salary).

10. REQUESTOR'S PROPOSED ANSWER:

Per IRS rules, "S corporations must pay reasonable compensation to a shareholder-employee in return for services that the employee provides to the corporation before non-wage distributions may be made to the shareholder-employee. Distributions and other payments by an S Corp to a corporate officer must be treated as wages to the extent the amounts are reasonable compensation for services rendered to the corporation"

Since the wages of the S Corp shareholder who is an employee are subject to employment taxes, these wages are considered earned income to CalFresh; the income is not considered self-employment income.

The client is required to report gross earned income paid by the S Corp.

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

The state concurs with the above county response. State regulations at MPP 63-502.111, state "All income from whatever source, except as specified in Section 63-502.12 and excluding only those items in Section 63-502.2 and Section 63-502.131 defines earned income as, all wages and salaries of an employee. Therefore, the wages/salary received by the client (shareholder/employee) from the S Corporation are otherwise non-excludable and should be treated as earned income in the CalFresh program.

FOR CDSS USE

DATE RECEIVED:	DATE RESPONDED TO COUNTY/ALJ:
02-21-2014	03-24-2014 SC