

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



May 12, 2000

ALL-COUNTY INFORMATION NOTICE I-49-00

TO: ALL COUNTY WELFARE DIRECTORS
ALL CalWORKs PROGRAM SPECIALISTS
ALL FOOD STAMP PROGRAM SPECIALISTS

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order or Settlement Agreement
- Clarification Requested by One or More Counties
- Initiated by CDSS

SUBJECT: NOTICE OF APPROVED FOOD STAMP PROGRAM REGULATIONS FOR FLEEING FELONS/CONVICTED DRUG FELONS (ORD #0799-14)

REFERENCE: ALL COUNTY INFORMATION NOTICE NO. 1-71-99
FOOD STAMP MANUAL SECTIONS 63-100, 63-102, 63-499, and 63-402

The purpose of this letter is to transmit copies of the food stamp regulations regarding fleeing felon and probation and parole violation requirements. The regulations have a proposed effective filing date of July 1, 2000.

The regulations were amended to comply with Personal Responsibility and Work Opportunity Reconciliation Act Section 821, and Welfare and Institutions Code Section 11486.5, to specify that any person fleeing to avoid felony prosecution, custody or confinement after a conviction, shall be ineligible for the Food Stamp Program. The amendments provide for administrative compatibility with MPP 82-832.1(8) of the CalWORKs regulations regarding rebuttable presumption when determining fleeing felon status. The individual may or may not claim to be aware of the outstanding warrant; however, to be eligible for food stamps, s/he would need to take whatever action is necessary and provide documentation to substantiate that the outstanding warrant no longer exists.

If you have any questions regarding this package, please contact Sonya Hunter at (916) 654-1459.

Original document signed by
CHARR LEE METSKER, Chief
Employment and Eligibility Branch

Enclosures

Amend Section 63-102 to read:

63-102 DEFINITIONS (Continued)

63-102

f. (3) "Fingerprint Imaging" (Continued)

(4) "~~A fleeing felon~~ is means an individual who is fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the individual is fleeing, for a crime or attempt to commit a crime, that is a felony-under the law of the place from which the individual is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey. The existence of a warrant for arrest shall be presumed to be evidence of fleeing, unless rebutted by other evidence sufficient to prove that the individual had no knowledge that s/he was being sought by law enforcement.

(5) "Food Stamp Act" (Continued)

g. Through u. (Continued)

v. (1) "Validity period" (Continued)

(2) "Violation of Probation or Parole" means an individual who is in violation of a condition of probation or parole. The initial offense for which probation or parole was ordered need not have been a felony.

w. Through z. (Continued)

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 10830, 11486.5 and 18930 through 18934, Welfare and Institutions Code; 8 U.S.C.A. Section 1522(e); 42 U.S.C.A. 601, et seq.; and 42 U.S.C.A. 5122; 7 CFR 272.4(f); 7 CFR 273.1(c)(5); 7 CFR 271.2; 7 CFR 273.2, .2(j), and (j)(4); 7 CFR 273.5(a); 7 CFR 273.9(c)(1)(ii)(D); 7 CFR 273.11(a)(2)(iii); 7 CFR 273.16(c); 7 CFR 273.21(b); 7 CFR 274.3(a)(2); 7 CFR 2710.2; 45 CFR 401; 45 CFR 400.62; Public Law (P.L.) 100-77, Section 802; (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 1, 1990) [Dock. No. CV-89-0768]); Section 66011, Education Code; P.L. 102-237, Section 902; 7 U.S.C. 2014(c)(2)(B) and (k)(2)(F); U.S.D.A. Food and Nutrition Service Administrative Notices 94-39; ~~Administrative Notice~~, 97-44, and 98-56; Hamilton v. Madigan (9th Cir. 1992) 961 F.2d 838; Food Stamp Act ~~Section 821~~, Section 6(k)(1); P.L. 104-193, Sections 805, 821, and 827 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); and Federal Register Vol. 59, No. 224, dated November 22, 1994.

Amend Section 63-402 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.2 Nonhousehold and Excluded Household Members (Continued)

.22 Excluded Household Members

The following individuals residing with a household shall be included as a member of the household for the purpose of defining a household under Section 63-402.1. However, such individuals shall be excluded from the household for the purpose of determining household size, eligibility or benefit level, or when determining categorical eligibility in accordance with Sections 63-301.7 and .82. The income and resources of excluded household member(s) shall be handled in accordance with Sections 63-503.44 and 63-503.45 as appropriate. Excluded household members shall not participate in the Food Stamp Program as separate households. (Continued)

.224 Fleeing Felons and Probation/Parole Violators

(a) Individuals who are fleeing felons as specified in Section 63-102(f.)~~(34)~~ and/or

(b) Persons in violation of their probation/-or parole violators as specified in Section 63-102v.(2).

HANDBOOK BEGINS HERE

(1) Regarding Violations of the Conditions of Parole

CDSS recommends that eligibility workers limit their verification of parole violations to those violations which have already been investigated and officially established by parole authorities in accordance with the formal processes of those parole authorities for making such determinations. Limiting verification to parole authority established violations is recommended because it is both cost effective and best insures that the civil rights of food stamp applicants and recipients are protected.

(2) Regarding Violations of Conditions of Probation

CDSS recommends that eligibility workers limit their verification of probation violations to those violations which have already been investigated and officially established by the courts responsible for supervision of probation in accordance with the formal processes of those courts for making such determinations. Limiting verification to court established violations is recommended because it is both cost effective and best insures that the civil rights of food stamp applicants and recipients are protected.

HANDBOOK ENDS HERE

.225 through .228 (Continued)

.229 Convicted Drug Felony Conviction

An individual convicted (under federal or state law) of any who has been convicted in a state or federal court of a felony offense that has as an element, the possession, use, or distribution of a controlled substance. The conviction must be for conduct occurring after August 22, 1996. A controlled substance does not include distilled spirits, wine, malt beverages, or tobacco is defined in Section 102(6) of the Controlled Substances Act [21 U.S.C. Section 802(6)] or Division 10 (commencing with Section 11000) of the Health and Safety Code. This is a permanent exclusion and shall only affect a conviction if the conviction is for conduct occurring after August 22, 1996.

HANDBOOK BEGINS HERE

(a) The term "convicted" also includes a plea of guilty or nolo contendere.

HANDBOOK ENDS HERE

.3 Boards (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 11251.3, 11486.5, and 18904, Welfare and Institutions Code; 7 CFR 273.1(a)(1) through (a)(2)(ii) through (b)(2)(iii), (c), (c)(1), (c)(6), 7 CFR 273.1(d)(1) and (2), (e)(1), and (g); 7 CFR 273.2(j)(4); 7 CFR 273.9(b)(2)(ii); 7 CFR 273.10(c)(1)(i); 7 CFR 273.11(b)(1); 7 CFR 274.5 and 7 CFR 274.10; Public Law (P.L.) 100-77, Section 802; P.L. 103-66; USDA Food and Consumer Services, Administrative Notice 94-39; USDA Administrative Notice 89/ 65/; Policy Memo 89-11 and 89-12; AN 98-43; 7 U.S.C. 2015(d)(1), P.L. 104-193, Sections 115, 803, 815, and 821 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); and the Balanced Budget Act of 1977 (Sections 5516 and 5518).