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

April 4, 2005

REASON FOR THIS TRANSMITTAL

[ ] State Law Change
[ ] Federal Law or Regulation Change
[ ] Court Order
[X] Clarification Requested by One or More Counties
[ ] Initiated by CDSS

ALL COUNTY INFORMATION NOTICE NO. I-16-05

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

SUBJECT: FOOD STAMP QUESTIONS AND ANSWERS

The purpose of this All County Information Notice is to provide counties with answers to questions regarding Food Stamp Program policy. These questions were submitted by the County Welfare Directors Association's Food Stamp Committee. The answers were then forwarded to the Committee for review and comments before being finalized by the California Department of Social Services, Food Stamp Policy Bureau (FSPB). As requested by the Committee, questions and answers (Q&As) are separated and categorized.

These answers are intended to be informational and are only based on the general circumstances provided in the question. For appropriate application to specific case circumstances, counties should refer to the regulations, All County Letters and All County Information Notices that are referenced in the responses.

If you have any questions regarding the attached Q&As, please contact the FSPB Policy Implementation Unit at (916) 654-1896.

Sincerely,

Original signed by:
Mike Papin for
RICHTON YEE, Chief
Food Stamp Branch

Attachment

APPLICATION PROCESSING – CATEGORICAL ELIGIBILITY AND CALWORKS DIVERSION PAYMENTS

QUESTION:

Can categorical eligibility be granted for the entire period that a diversion payment funded under Title IV-A is intended to cover?

ANSWER:

Yes. Per the Manual of Policies and Procedures (MPP) 63-301.7, a federal food stamp household in which all members receive or are authorized to receive cash aid through a Public Assistance (PA) program funded in full or in part with federal money under Title IV-A or with state money counted for maintenance of effort (MOE) purposes under Title IV-A is to be considered categorically eligible. Categorical eligibility exists for a food stamp household when a CalWORKs diversion payment is paid and intended to cover a known period of time. If a diversion payment is intended to cover several months, then the food stamp household, by definition, is authorized to receive Temporary Assistance to Needy Families (TANF) for the months that the payment is intended to cover. Therefore, if cash aid is authorized or received or authorized to be received by a potentially eligible food stamp household, there is categorical eligibility for the entire period.

APPLICATION PROCESSING – DENIAL

QUESTIONS #1-4 SCENARIO:

An applicant applies for Food Stamps on June 4, 2004 and is scheduled for the first interview on June 8th. At the time of application, the applicant is given a generic list of verifications to provide with the application. The applicant misses the interview and the county sends the Notice of Missed Interview (NOMI). On June 14th the household reschedules the appointment for June 28th. The interview is held, but income verification is missing. The county gives the client a 10-day Notice of Action (NOA) to provide the missing verification. The applicant does not provide the missing verification by the 30th day following the application. The verification is received by the county in the second 30-day period on July 8th.

QUESTION #1:

Can the application be denied on the 30th day after the application, if the verification was not received without a 10-day waiting period?

ANSWER:

No. The county cannot deny the application without waiting an additional 10 days for verification. Per MPP 63-301.42, if by the 30th day of the application processing period, the county cannot take further action on the application due to the fault of the applicant household, the county has an option to either deny the application on the 30th day or pend the application for another 30 days. <u>The selected option must be countywide.</u> Since the county sent the 10-day NOA for the missing verification, the county, in essence, pended the application beyond the 30-day application processing time frame.

QUESTION #2:

If the verification is received on July 3rd, within the second 30-day period, and eligibility is established, are benefits issued from July 1st or the date the verification is received (July 3rd)?

ANSWER

When the county opts to extend the application processing timeframes beyond 30 days, MPP 63-301.423 provides if the household responds and is determined eligible during the second 30-day period the county shall provide benefits only from the date the county received verification. Benefits will be prorated and issued from July 3rd.

APPLICATION PROCESSING – DENIAL (CONTINUED)

QUESTION #3:

Would it matter if the household had missed one appointment prior to the appointment on the 28th and verification is still pending?

ANSWER:

No. If the county elects to deny on the 30th day because the household has failed to appear for the first interview and a subsequent interview is postponed at the household's request or the household cannot otherwise be rescheduled until after the 20th day, but before the 30th day following the date the application was filed, the household must appear and bring requested verification. If requested verification has not been provided by the 30th day, the county denies the household; consequently, the household loses benefits for the month of application. Refer to the answer to question #2 for the procedure for a county that opts to extend the application beyond the 30-day processing time frame.

QUESTION #4:

Since counties are required to deny cases on the 30th day after the date of application, how is Steffens v. McMahon applied in the above situations?

ANSWER:

Steffens v. McMahon provides that the food stamp application must be processed within the established time frame as provided in MPP 63-301.2 and 63-301.3, which is 30 days from the receipt of the initial application as provided in ACL 93-29. The application is considered processed if on the 30th day, it is denied or a notice is sent to the household explaining what must be provided to complete the application within those extended 30 days.

APPLICATION PROCESSING – INTERCOUNTY TRANSFER AND QUARTERLY REPORTING

QUESTION #1:

When does the County Welfare Department discontinue Quarterly Reporting (QR) Public-assistance (PA) food stamp households when their CalWORKs case is transferred from one county (County A) to another county (County B)?

ANSWER:

With the implementation of QR, PA food stamp households, whose CalWORKs case is in the process of being transferred from County A to County B, shall continue to receive food stamp benefits from County A until the CalWORKs case is discontinued at the end of the CalWORKs transfer period. There is no change in food stamp policy for change reporting households that move out of county. For change reporting households, County A must discontinue food stamp benefits as soon as 10-day notice can be sent to the household.

For QR CalWORKs and food stamp households, benefits must be discontinued at the same time; at the time the CalWORKs transfer period ends. The purpose for this policy change was to allow counties to more easily align QR reporting cycles between CalWORKs and food stamps when County B accepts the transfer and approves eligibility for each program. However, if County A terminates the CalWORKs transfer period prior to its scheduled ending date, County A must then discontinue food stamp benefits for loss of residence after 10-day notice is given to the food stamp household. The food stamp transfer period is only viable as long as the CalWORKs transfer period is in process.

QUESTION #2:

When does County B give the DFA 285-A1 food stamp application to PA households whose CalWORKs case is being transferred from County A?

ANSWER:

The DFA 285-A1 should be given to the household within 30 days of the transfer period ending date. County B cannot issue benefits while the transfer period is in process from County A.

INCOME – PAID FAMILY LEAVE

QUESTIONS #1-3 SCENARIO:

A Food Stamp/Medi-Cal one-person-applicant household is receiving Paid Family Leave (PFL) to care for her mother who resides outside the home.

QUESTION #1:

How is the income treated?

ANSWER:

Based on PFL law, to qualify for PFL compensation, an individual must be covered by State Disability Insurance (SDI) or a voluntary plan in lieu of SDI, and have earned at least $300 from which deductions were withheld. Prior to the individual receiving PFL, an employee has the option to take up to two weeks vacation or sick leave. If this occurs, the vacation leave payments or sick leave would be considered earned income. All PFL payments linked to SDI accounts are considered unearned income as provided in MPP 63-502.142.

QUESTION #2:

Can a work registrant caring for an incapacitated parent who is a Food Stamp/Medi-Cal applicant be exempted or is a deferral used due to an immediate family/household situation that requires the presence of the registrant?

ANSWER:

Yes. The exemption from work registration is based on “good cause” because the circumstances are beyond the registrant’s control as provided in MPP 63-407.51.

QUESTION #3:

Can we use the approval of the Paid Family Leave to verify the exemption or must we get doctor verification?

ANSWER:

Yes. The county can use the approval of the PFL as verification for the exemption. Only if the county questioned that verification or actions of the household member in caring for the incapacitated parent would further verification be needed as provided in MPP 63-300.5(g) (3)(C).

INCOME – SELF-EMPLOYMENT

QUESTION:

Can babysitters or day laborers be considered self-employed?

ANSWER:

Food Stamp Regulations at MPP 63-503.41 and federal regulations do not define self-employment because any definition could not account for the variety of self-employment situations that can exist. Self-employment must be determined on a case-by-case basis. A person who works for wages or a commission is not self-employed. Criteria such as tax returns, employer reports to the IRS, Social Security tax withholding, etc., can be used to determine self-employment. Any application of self-employment income rules should take into consideration whether an employer-employee relationship exists; for example, a babysitter is considered self-employed if s/he incurs costs for providing the service, and files taxes as a self-employed individual. In contrast, a governess is not considered self-employed, due to having an employer who has hired her to provide a service, where the employer incurs any cost relating to the service and the employee files a tax return as an individual, not claiming self-employment status.

NONCITIZENS – SPONSOR DEEMING AND DEEMED INCOME CALCULATION

SCENARIO:

The household includes three members, two sponsored adults and one sponsored child. The sponsor does not sponsor other noncitizens, lives apart from these sponsored noncitizens, and has $1,800 in net nonexempt income.

QUESTION:

How do we compute deemed income from a sponsor when the household includes both two sponsored adults and a sponsored child? Is the child included in the sponsored deeming proration?

ANSWER:

A noncitizen child under the age of 18 is now exempt from sponsored deeming in the FSP; therefore, the child is not subject to sponsored deeming. The child's share of the deemed income would not be counted in the food stamp budget (ACL 03-35). The calculation would be as follows: $1,800 (the sponsor's net nonexempt income) is divided by the three sponsored noncitizens (the husband, wife, and child) to determine the prorated share for each household member. The prorated share for each member is $600. $600 is then multiplied by two (husband and wife), which equals $1,200. The deemed amount from the sponsor to the household is $1,200, which excludes the child's prorated share.

NONCITIZENS – BATTERED NONCITIZENS, SPONSOR DEEMING EXEMPTION – CALIFORNIA FOOD ASSISTANCE PROGRAM

QUESTION #2A:

Does the California Food Assistance Program (CFAP) have a requirement (MPP 63-403.2) that differs from the requirement for Federal Food Stamps, such that any CFAP-eligible battered noncitizen can qualify as exempt from sponsor deeming, assuming they are victims of abuse by their sponsor or sponsor's spouse, without regard to USCIS paperwork granting the status described in MPP 63-405.512?

ANSWER:

No, current regulations at MPP 63-405.5 also apply to CFAP non-citizens.

QUESTION #2B:

In order for a CFAP eligible non-citizen to be exempt from sponsor deeming, is the county required to make the same finding as Federal FS, i.e. that there is a substantial connection between the battery and the need for benefits?

ANSWER:

The same requirements for the determination of eligibility apply to battered noncitizens in CFAP. Refer to question #1 above.

NONCITIZENS – ESTABLISHING FEDERAL ELIGIBILITY)
(VERIFYING FORTY QUALIFYING QUARTERS)

QUESTION:

Can verification of the forty (40) quarters to establish federal eligibility be documented through the completion of an affidavit signed by the sponsor?

ANSWER:

A sworn statement (affidavit), which is a legally enforceable contract between the sponsor and the state and federal government, is considered sufficient temporary verification providing the sponsor completes it in front of a U.S. Notary Public or a U.S. Immigration or Consular Officer. By signing the affidavit, the sponsor assumes full responsibility for the support of the sponsored noncitizen. The sponsor's responsibility for support of the sponsored noncitizen continues until the 40 quarters are verified. The county may certify the household for up to 6 months pending the results of an investigation to determine if the household has the qualifying quarters.

OVERISSUANCE – RESPONSIBLE PERSON

QUESTION:

Can the county collect from any adult member present in the household at the time of an overissuance, including adult children, but not collect from children who leave the case and establish their own household?

ANSWER:

Yes. All adult household members, including children who are adults in the household, are liable for any overissuances (O/I) which occurred while they were in the household. Per MPP Section 63-801.1, a claim for an O/I is applied against any household that has received more food stamp benefits than it is entitled to receive or to any household which contains an adult member who was an adult member of another household that received more food stamp benefits than it was entitled to receive. While minor children are not liable for O/Is, if the household consists of all minors, a collection action can be initiated against a household whose only eligible members are minors (ACL 91-53). If a minor leaves an "all minor" household, that minor is not liable for the overissuance.

OVERISSUANCE – USE OF CALWORKS OVERISSUANCE IN QUARTERLY REPORTING

QUESTION:

When calculating an overissuance claim, is the PA amount (CalWORKs) that was actually issued and that could have been "reasonably anticipated" at the time of issuance used, or is the recalculated CalWORKs grant amount used?

ACL 03-18, page 57, states, "The FSP will use the recalculated CalWORKs grant to redetermine the FS allotment". However, the emergency regulations and the old regulations regarding benefit determination state that to use the amount that can be anticipated with reasonable certainty or can be reasonably anticipated.

ANSWER:

The statement in ACL 03-18, page 70, about using the recalculated CalWORKs grant when computing an O/I or U/I, is incorrect. When computing an O/I or U/I, counties are to use the actual amount that was anticipated with reasonable certainty or that was reasonably anticipated. QR regulations support using the amount of the CalWORKs grant that was reasonably anticipated with no look-back for recalculation of the CalWORKs grant. Also, in ACL 03-18, page 74, counties are instructed that no O/I or U/I will be assessed when actual income received during the quarter differs from the amount of income reasonably anticipated, as long as the recipient met his or her mandatory reporting obligations. Since CalWORKs grants are known-to-county information and not subject to recipient reporting, a recalculated grant is not required.

OVERISSUANCE (OI) – NOTICE REQUIREMENTS

QUESTION:

MPP 63-801.431(a) indicates that the initial notice of action for establishing an overissuance (OI) should include "how the claim was calculated". Does this mean that the county should include the actual calculation?

ANSWER:

Yes. MPP 63-801.431 (a) requires that the initial demand letter or notice of adverse action contain information on how the claim was calculated. The purpose of this notice is to provide the household with sufficient information to make an informed decision about the correctness of the OI. At a minimum, the demand letter must include the pertinent information that was used to determine the claim amount for each month of the O/I (refer to the example below). Depending on the reason(s) for the O/I, this information could include such items as: the amount of income used, the earned income deduction allowed or the number on members in the household.

Counties may determine how best to convey the required information. This information may be presented in the body of the letter or in an attachment to the letter. The attachment could be a photocopy of the county recipient claim worksheet (attaching a copy of the DFA 842 to the DFA 377.7B) or some other format of the county's design, which fulfills the information requirements. An example of the minimum information needed is as follows:

Example:

Month	Allotment Received	Allotment Authorized	Amount of Overissuance	Adj. for Expunged Benefits (if any)	Amount of Claim
6/00	300	100	200	50	150
7/00	300	100	200	-	200
8/00	300	100	200	-	200

Total Amount of Claim: $500