

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



April 5, 2005

ALL COUNTY INFORMATION NOTICE NO. I-17-05

TO: ALL COUNTY WELFARE DIRECTORS
ALL FOOD STAMP COORDINATORS
ALL QUALITY CONTROL COORDINATORS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: QUESTIONS AND ANSWERS -- FOOD STAMPS FOR DRUG FELONS

REFERENCES: ALL COUNTY LETTER (ACL) 04-59
ALL COUNTY INFORMATION NOTICE (ACIN) I-03-05

This letter transmits a second volume of questions and answers relating to ACL 04-59 dated December 30, 2004 regarding policy on drug felons. The first volume of questions and answers relating to ACL 04-59 was transmitted with ACIN I-03-05 dated January 21, 2005.

The attached questions and answers were reviewed by the County Welfare Directors Association's Food Stamp Committee before finalization by the Food Stamp Policy Bureau. If you have any questions regarding the attached information, please contact Karen Abbe of the Food Stamp Policy Development Unit at Karen.Abbe@dss.ca.gov or (916) 654-5709.

Sincerely,

Original Document Signed By:

RIGHTON YEE, Chief
Food Stamp Branch

Attachment

Questions & Answers -- Second Volume -- Re: ACL 04-59 Drug Felons
(First Volume of Questions transmitted with ACIN I-03-05)

Question 1:

Can benefits for drug felons be provided as expedited food stamp cases?

Answer: Yes. Special procedures for expediting service still apply (MPP 63-301.541).

Question 2:

If a drug felon meets a condition of eligibility for food stamps, and begins receiving benefits, should benefits be terminated for subsequent arrest for parole or probation violation relating to drug use or possession?

Answer: No. Subsequent arrest is not cause for discontinuance. Subsequent felony drug conviction is cause for discontinuance.

Question 3:

A person is convicted of a qualifying drug felony, and applies for food stamp benefits after the conviction. Conditions of Eligibility refer to "proof of one of the following subsequent to the most recent drug-related conviction." Courts can order completion of a drug treatment program (Condition 1) prior to sentencing and conviction. How can a drug felon meet the conditions of eligibility, when drug treatment corresponded to the most recent drug-related conviction, but was not subsequent to the conviction?

Answer: Conditions of Eligibility in ACL 04-59 were taken directly from Chapter 932, Statutes of 2004, which added Section 18901.3 to the Welfare and Institutions Code. This legislation did not address treatment ordered prior to sentencing. However, it did provide CDSS with latitude to interpret Condition 5 (other evidence that illegal use of controlled substances has ceased). In the scenario for this question, the drug felon would not meet Condition 1, but could meet Condition 5 if he/she presented evidence (i.e., affidavit) that illegal use of controlled substances had ceased as of the date of drug treatment that corresponded to the most recent drug-related conviction.

Question 4:

Are counties required to conduct urinalysis at claimant's request in order to assist them in obtaining evidence that illegal use of controlled substances has ceased?

Answer: No.

Question 5:

Do counties have a 120-day hold harmless period for errors pertaining to the new drug felon provisions?

Answer: No. Ordinarily, a hold harmless period is allowed only for federally mandated changes, and this was not a federally mandated change.

Question 6:

For purposes of determining eligibility for food stamp benefits, our county had been treating minors with drug felony convictions the same as adults with drug felony convictions. All drug felons were ineligible for food stamp benefits. There was no distinction made between a minor tried and convicted as a minor, or a minor tried and convicted as an adult. ACIN I-03-05 Question 10 states that a minor would be considered a drug felon for food stamp eligibility purposes only if they have been tried and convicted as an adult. Is this a change?

Answer: No. This is not a change in policy. A minor would only be considered a drug felon for purposes of food stamp eligibility IF the minor was tried and convicted as an adult. See ACIN I-71-99.

Question 7:

A member of the food stamp household has a felony drug conviction that occurred prior to August 22, 1996. The household member is not a fleeing felon. Does the drug felony conviction have any effect on eligibility for food stamps?

Answer: No.

Question 8:

Will CDSS revise the FS 26 to accommodate date(s) of drug treatment completion, date(s) of conviction, or date of "most recent" drug felony conviction?

Answer: CDSS will review the FS 26 for possible revisions after counties have more time to utilize the form in their respective counties, and then provide feedback to CDSS.

Question 9:

For beginning date of aid (BDA) for qualified drug felons, is BDA the beginning of the month after the month of request as specified in ACIN I-03-05 Question 3, or the beginning of the month following receipt of verification as specified in Question 6? For example, the County is contacted by phone on January 24th to request benefits for an excluded convicted drug felon, and the caseworker mails the FS 26 to the household on the same day giving 10 days for return. The FS 26, including verification, is received on February 2nd which is within the specified time period. Is the person added to the household effective February 1st or March 1st?

Answer: Current BDA rules still apply. The BDA would be February 1st. Note that Question 6 in ACIN I-03-05 referred to verification that was not received within the 10-day timeframe. Based on the above scenario for Question 9, assuming verification was provided within 10 days of request, the worker would process the increase of benefits on February 2nd, calculating a full month of benefits for February.

Question 10:

For BDA, ACIN I-03-05 Question 6 states that the drug felon cannot be added until appropriate verification is received, and then only added on the first on the month following receipt of verification. If a household contacts the County Welfare Department (CWD) on February 27th asking for food stamp benefits for a drug felon. The CWD sends a FS 26 on February 28th, and gives the household 10 days to respond. On March 5th, the household returns the FS 26 and verification of completion of a drug program. Under Quarterly Reporting rules, since verification was provided within 10 days of request, they are eligible to benefits on March 1st (ACL 03-18, page 42, 4th bullet). But ACIN I-03-05 Question 6 says they would not be eligible until April 1st. Please clarify.

Answer: Current BDA rules still apply. The BDA would be March 1st. Again, note that Question 6 in ACIN I-03-05 referred to verification that was not received within the 10-day timeframe. Based on the above scenario for Question 10, assuming verification was provided within 10 days of request, then the worker would process the increase of benefits on March 5th, calculating a full month of benefits for March.

Question 11:

If an FS 26 is not returned to the CWD, a No Change Notice of Action (NOA) should be sent to the household (ACIN I-03-05, Question 6). Is a NOA still required when the CWD (on its own initiative, no contact from client) sent the FS 26 to the household, and the FS 26 was not returned to the CWD?

Answer: No.

Question 12:

We have a client who has a qualified drug felony and is issued food stamp benefits. The client is subsequently convicted of another drug felony. Do we calculate an overissuance (O/I) from the date of the subsequent drug felony conviction?

Answers:

For Change Reporting Households: Calculate the O/I from the date the drug felon would have been discontinued from benefits after 10 days is assumed for the household to have provided the information, 10 days for the CWD to act, and a 10-day notice to have been sent.

For PAFS QR Households: Because food stamp benefits must be redetermined when a drug felon status is reported in the CalWORKs program, the O/I will be computed from the first of the month following the provision of 10 days for the household to report the change and for the CWD to have provided a 10-day notice.

For NAFS QR Households: NAFS QR households are not required to report drug felonies mid-quarter, just on the QR 7. Therefore, the O/I is determined from the first quarter following a non-report of ineligible drug felon status on the QR 7.