

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



June 24, 2005

ALL COUNTY INFORMATION NOTICE I-34-05

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

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: FOOD STAMP QUESTIONS AND ANSWERS (Q&As)

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). Q&As are separated and categorized as requested by the Committee.

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,

RIGHTON YEE, Chief
Food Stamp Branch

Attachment

CATEGORICAL ELIGIBILITY– TRIBAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)

QUESTION #1:

Are households receiving Tribal TANF categorically eligible for food stamp benefits?

ANSWER:

Tribal TANF cash assistance is derived from the TANF block grant, which is considered cash aid. Therefore, if all members of the food stamp household receive cash aid, the household is considered categorically eligible for food stamp benefits under Manual of Policies and Procedures (MPP) 63-301.7.

QUESTION #2:

Are households receiving Tribal TANF considered Public Assistance Food Stamps (PAFS) or Nonassistance Food Stamps (NAFS) households?

ANSWER:

All categorically eligible households who receive Public Assistance (PA) benefits are considered PAFS households (MPP 63-301.7).

INCOME – AMERICORPS PAYMENTS

BACKGROUND:

In 1994, Congress created the National Service Trust Act and Transferred the VISTA program to the Corporation for National and Community Service (CNCS). Two programs were created: the AmeriCorps*State/National program and the AmeriCorps*National Civilian Community Corps. In addition, the VISTA program name was changed to AmeriCorps*VISTA.

QUESTION:

How are AmeriCorps*VISTA and AmeriCorps*State/National income and other AmeriCorps payments treated in the Food Stamp Program (FSP)?

ANSWER:

AmeriCorps*VISTA payments are not treated like other AmeriCorps payments that are excluded from income. The authorizing legislation for VISTA (the Domestic Volunteer Service Act of 1973) requires volunteer payments received by new applicants, who were not receiving public assistance or food stamps at the time they joined VISTA, to be counted as earned income (MPP 63-502.134). However, MPP 63-507(a) (17) exempts AmeriCorps*State/National and AmeriCorps*National Civilian Community Corps payments from consideration as income for food stamp eligibility and benefit determination.

INCOME – CASINO DISBURSEMENTS

QUESTION #1:

Should casino disbursement proceeds up to \$2,000 a calendar year per individual be excluded as income under MPP 63-506(b)(8)?

ANSWER:

Yes, if the county determines that the casino's income disbursements are approved from interest on legal shares to the individual client in trust or restricted land. If so, the first \$2,000 income per calendar year is excluded, and any funds which exceed the \$2,000 in a calendar year are counted as unearned income in the month in which it is received according to MPP sections 63-506(b)(8) and 63-502.146.

QUESTION #2:

Should we be treating the total casino disbursements as unearned income?

ANSWER:

If casino disbursements are a direct result of interest paid to the individual from a trust or interest in restricted land, pursuant to MPP 63-506(b)(8), the income is treated as unearned income after the first \$2,000 is excluded per calendar year. This exclusion applies to each individual household member who holds an interest or legal shares.

QUESTION #3:

How can counties determine how income should be treated under Public Law?

ANSWER:

PUBLIC LAW BACKGROUND

MPP 63-506(b)(8) is composed of three Public Laws (P.L.): P. L. 93-134, P. L. 97-458, and P. L. 103-66, Section 13736, that provides certain types of payments made to tribal members are exempt from income and resources. P. L. 93-134 authorized per capita distribution of payments to tribal members due judgement funds held by the Secretary of the Interior. P.L. 97-458 mandated distribution payments be exempted as income and resources and initial purchases exempted as resources. Section 13736 of P. L. 103-66 excludes the first \$2,000 distributed payment per calendar year.

INCOME – CASINO DISBURSEMENTS (CONTINUED)

ANSWER:

Treatment of this income on a statewide basis is derived from MPP 63-506(b)(8), which includes the directives of these Public Laws. The client should supply verification of the source of the income. Counties can use the above MPP section(s) to determine how to treat the income, and counties can work with the client's tribe to obtain information needed to verify the type of issued disbursement.

INCOME – CHILD SUPPORT PAYMENTS

QUESTION:

Is a CalWORKs Maximum Family Grant (MFG) child's receipt of child support from the Local Child Support Agency (LCSA) considered income in the FSP?

ANSWER:

No. The MFG child is considered part of the Assistance Unit (AU) and child support payments must be assigned to the Local Child Support Agency (LCSA) in the CalWORKs program. According to MPP 63-502.122, income shall not include child support payments received by CalWORKs recipients directly from a nonhousehold member, which must be transferred to the LCSA's office or other county agency administering Title IV-D of the Social Security Act (Child Support requirements) to maintain CalWORKs eligibility. Therefore, the MFG child's receipt of child support from the LCSA is exempt as income in the FSP.

INCOME – DISASTER RELIEF EMPLOYMENT INCOME

QUESTION:

How is disaster relief employment income received during a nationally declared disaster treated in the FSP?

ANSWER:

The income earned from disaster relief employment is excluded from food stamp eligibility and benefit level determination as provided in the MPP 63-507(a)(4). Counties can verify whether the source of the income is from a National Emergency Grant under the Workforce Investment Act by contacting their local Workforce Investment Area office. The source of the income should be verified if the client suffered a job loss or was unemployed due to a recent disaster, if the employment is deemed temporary (less than six months), and if the type of work is disaster-related.

INCOME – DISASTER UNEMPLOYMENT ASSISTANCE

QUESTION:

How is disaster relief unemployment income received during a nationally declared disaster treated in the FSP?

ANSWER:

The unemployment assistance income earned from disaster employment is excluded from food stamp eligibility and benefit level determination as provided in MPP 63-507(a)(10). Counties need only to verify the source of income if the client suffered job loss or endured unemployment due to a recent disaster. Disaster unemployment payments are limited to 26 weeks. This income can be verified through the MEDS on-line system that is used to determine existing or potential unemployment benefit payment and emergency need cases.

INCOME – SELF-EMPLOYMENT (NEWSPAPER CARRIERS)

QUESTION:

Does the county have the authority to establish a more restrictive policy in determining which occupation is self-employment?

ANSWER:

The county has some discretion in determining whether an individual is self-employed, but this does not mean that the county can create rules that would be more restrictive than what is allowed under Federal regulations. For example, the county cannot require that the individual be responsible for the success or failure of the business in order for it to be considered self-employment.

Self-employment must be determined on a case-by-case basis, as provided in Policy Interpretation 188. Criteria such as tax returns, employer reports to the Internal Revenue Service, Social Security tax holding, etc., can be used to determine self-employment. For example, if a food stamp applicant applies for Food Stamp benefits as a self-employed newspaper carrier, provides the county with a 1099 or a Schedule C, and files taxes as self-employed, then the individual would be considered self-employed for food stamp purposes. An individual claiming self-employed status for income tax purposes is considered self-employed for food stamp purposes. Document the process and supporting documents used to determine the client was self-employed in the case file.

(NONCITIZENS – BATTERED NONCITIZENS

QUESTION 1A:

To be exempt from sponsored deeming under the provisions of 63-503.492(e), is the noncitizen also required to possess the United States Citizenship and Immigration Services (USCIS) paperwork showing approval to reside in the U.S.?

ANSWER:

Yes. According to MPP 63-405.1, the non-citizen must be legally residing in the U.S. and verifying this is mandatory per MPP 63-300.5(e)(2).

QUESTION 1B:

What verification is necessary to be considered a qualified battered noncitizen under MPP sections 63-405.511 and 63-405.512?

ANSWER:

To be considered a qualified battered noncitizen, the county must determine that: (1) there is a substantial connection between battery or cruelty and the need for benefits, and (2) the noncitizen has been approved by USCIS or has a petition pending that provides sufficient evidence to prove status (a prima facie case) as:

- a spouse or a child of a U.S. citizen,
- a spouse or child of a noncitizen lawfully admitted for permanent residence (LPR) in the U.S., or
- a victim of domestic violence who has filed a cancellation of removal or suspension of deportation.

QUESTION 1C:

If a battered noncitizen is determined to be a qualified noncitizen, is that person eligible for federal food stamp benefits solely on a qualified immigration status?

ANSWER:

No. The condition of qualified noncitizen must be met to obtain entry into the U.S. A qualified noncitizen must meet the other conditions as provided in MPP 63-405 for federal non-citizen eligibility, such as a five-year residency requirement or an LPR with 40 qualifying quarters of work, etc.

NONCITIZENS – BATTERED NONCITIZENS (CONTINUED)

QUESTION 1D:

What is a prima facie case?

ANSWER:

A prima facie case is one where the evidence is sufficient to raise a presumption of fact or to establish the fact in question. The prima facie case status is determined by USCIS.

QUESTION 1E:

Is a prima facie case required under the provisions of MPP 63-405.512?

ANSWER:

Yes. A prima facie case is required, as determined by USCIS, but only if the battered noncitizen does not have the following documentation: a Form I-130 filed by their spouse or the child's parent; a Form I-130 petition as a widow(er) of the U.S. citizen; an approved self-petition under the Violence Against Women Act; or an application for cancellation of removal or suspension of deportation filed as a victim of domestic violence.

QUESTION 1F:

Is battered qualified noncitizen who meets the requirements of MPP 63-405.5 entitled to the exemption from sponsor deeming?

ANSWER:

Yes. Once it has been established that the sponsored noncitizen meets the requirements of MPP 63-405.5, (see Question 1B above) then under MPP 63-503.492 (e) the sponsored noncitizen may be exempted from deeming either for 12 months or indefinitely depending on the circumstances.

NONCITIZENS – BATTERED NONCITIZENS (CONTINUED)

QUESTION 1G:

How can CWDs determine abuse/battery?

ANSWER:

On December 11, 1997, the Department of Justice published guidance for making a determination as to whether a substantial connection exists between the battery or extreme cruelty and the applicant's need for public benefits. According to the federal guidance, the following are examples of situations that demonstrate a substantial connection between the abuse or extreme cruelty: to enable the applicant and the applicant's child or parent to become self-sufficient; to escape the abuser or community in which the abuser lives; to ensure the safety of the applicant; to mitigate a loss of dwelling or financial support because of separation from the abuser; to alleviate nutritional risk; to obtain medical attention or mental health counseling as a result of the abuse.

TRANSITIONAL FOOD STAMPS

BACKGROUND:

An absent father with earnings returned to the home July 2004. The CalWORKs case would have been discontinued at the end of the payment quarter on August 31, 2004, if the information had been reported to the worker. When the worker learned of the situation, the CalWORKs case was discontinued on November 30, 2004.

QUESTION:

In a situation in which the CalWORKs case should have been discontinued, but the client continued to receive a CalWORKs grant, will Transitional Food Stamp (TFS) benefits begin the month after the CalWORKs grant is actually discontinued or the month the CalWORKs grant should have been discontinued?

ANSWER:

TFS benefits would begin on December 1 because the last month the client received a CalWORKs grant was November (MPP [63-504.13](#)).