



CDSS

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DEPARTMENT OF SOCIAL SERVICES

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EDMUND G. BROWN JR.
GOVERNOR

September 1, 2016

ALL COUNTY WELFARE DIRECTORS LETTER

REASON FOR THIS TRANSMITTAL

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

TO: ALL COUNTY WELFARE DIRECTORS

FROM: TODD R. BLAND
Deputy Director
Welfare-to-Work Division

SUBJECT: RIOJAS VS. USDA: ELIGIBILITY FOR CALFRESH WHILE
SSI BENEFITS ARE IN SUSPENDED STATUS

The United States District Court – Northern District of California recently issued a decision in the *Hector Riojas v. United States Department of Agriculture* case, granting a summary judgment against the United States Department of Agriculture (USDA).

The plaintiff in the case argued that Supplemental Security Income/State Supplementary Payment (SSI/SSP) recipients whose benefits have been interrupted or are in suspended status should be eligible for CalFresh during that time, even if the State has chosen to implement a “cash-out” policy. The Court agreed with the plaintiff and concluded that the plaintiff was eligible for CalFresh benefits while his SSI benefits were in suspended status.

The purpose of this letter is to inform counties of the outcome of the case. Counties do not need to take any action at this time as CDSS is awaiting guidance from USDA. CDSS will issue an All County Letter (ACL) with more information to bring California into compliance with the ruling as soon as possible.

Attached you will find a copy of the District Court’s summary judgment and order.

If you need additional information or have any questions, please contact Alexis Fernández, CalFresh Policy Section Chief, at alexis.fernandez@dss.ca.gov or 916-654-1896.

Enclosure

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HECTOR RIOJAS,
Plaintiff,

v.

UNITED STATES DEPARTMENT OF
AGRICULTURE, et al.,
Defendants.

Case No. 15-cv-03592-JST

**ORDER RE: CROSS-MOTIONS FOR
SUMMARY JUDGMENT**

Re: ECF Nos. 41, 42, 43

United States District Court
Northern District of California

Plaintiff Hector Riojas brought this suit under 5 U.S.C. § 7 of the Administrative Procedures Act (“APA”), alleging that the United States Department of Agriculture (“USDA”) has promulgated a regulation, 7 C.F.R. § 273.20(b), which contravenes 7 U.S.C. § 2015(g), the underlying statute the regulation was meant to implement. The statute, in essence, provides that no individual who “receives” Supplemental Security Income (“SSI”) benefits shall also receive Supplemental Nutrition Assistance Program (“SNAP”) benefits, so long as that individual resides in a State which supplements the SSI benefits provided to its citizens to include the “bonus value of [SNAP benefits].” The regulation provides that “[o]nce SSI benefits are received, the individual will remain ineligible for food stamp benefits, even during months in which receipt of the SSI benefits is interrupted, or suspended”

The Court concludes that the challenged regulation cannot be reconciled with the plain language of 7 U.S.C. § 2015(g). Accordingly, the Court will grant Plaintiff’s Motion for Summary Judgment with respect to Plaintiff’s claim against the USDA and deny the USDA’s Motion for Summary Judgment. The Court will also grant Plaintiff’s Motion for Summary Judgment against Defendant Will Lightbourne, Director of the California Department of Social Services, and deny Defendant Lightbourne’s Motion for Summary Judgment.

1 **I. BACKGROUND**

2 **A. SSI, SSDI, SNAP, and SSP**

3 Supplemental Security Income (“SSI”) is a federal income supplement program designed
4 to help aged, blind, and disabled individuals who have little or no income. SSI is administered by
5 the United States Social Security Administration (“SSA”) and provides monthly cash benefits for
6 those who qualify. Social Security Disability Insurance (“SSDI”), by contrast, is a federal
7 insurance program managed by the SSA, which provides income supplements to individuals who
8 are restricted in their ability to work because of a qualifying disability.

9 The Supplemental Nutrition Assistance Program (“SNAP”), formerly known as the Food
10 Stamp Program, provides nutrition assistance in the form of monthly benefits to low-income
11 households. SNAP is administered nationally by the USDA and funded by the federal
12 government. Each State, however, is responsible for administering SNAP for its residents, making
13 eligibility determinations, and distributing benefits. In California, the California Department of
14 Social Services (“CDSS”) administers the program, where it is called CalFresh.

15 The USDA’s economists have concluded that “SNAP significantly improves the welfare of
16 low-income households.” L. Tiehen, D. Jolliffe, & C. Gundersen, Alleviating Poverty in the
17 United States: The Critical Role of SNAP Benefits, ERR-132, U.S.D.A., Econ. Res. Serv. i (Apr.
18 2012), <http://www.ers.usda.gov/publications/err-economic-research-report/err132.aspx>. SNAP
19 has been called “a powerful anti-hunger and anti-poverty tool” that “kept 4.8 million people above
20 the poverty line in 2013, including 2.1 million children.” B. Keith-Jennings, “SNAP Helps
21 Roughly 1.7 Million Struggling Veterans, Including Thousands in Every State,” Center on Budget
22 and Policy Priorities (Nov. 11, 2014), [http://www.cbpp.org/research/snap-helps-roughly-17-](http://www.cbpp.org/research/snap-helps-roughly-17-million-struggling-veterans-including-thousands-in-every-state)
23 [million-struggling-veterans-including-thousands-in-every-state](http://www.cbpp.org/research/snap-helps-roughly-17-million-struggling-veterans-including-thousands-in-every-state). As former Secretary Leon Panetta
24 noted in a recent article, “because of SNAP, children rarely experience severe hunger and
25 developmental problems because vital nutritional support is available.” L. Panetta, Defending
26 Food Stamps, Politico (Sep. 17, 2013), [http://www.politico.com/story/2013/09/food-stamps-](http://www.politico.com/story/2013/09/food-stamps-panetta-hunger-farm-bill-096939)
27 [panetta-hunger-farm-bill-096939](http://www.politico.com/story/2013/09/food-stamps-panetta-hunger-farm-bill-096939). Almost 100,000 veterans in California households receive food
28 stamps. Keith-Jennings, supra.

1 Individual states may also pay supplemental benefits to their citizens above and beyond the
2 benefits provided by SSI. These supplemental payments are known as State Supplementary
3 Payments (“SSP”). States that increase their SSP to include the value of food stamp allotments in
4 cash are known as “cash-out states.” Currently, California is the only cash-out state.

5 **B. The Challenged Regulation**

6 7 U.S.C. § 2015(g) provides:

7 **RESIDENTS OF STATES WHICH PROVIDE STATE SUPPLEMENTARY**
8 **PAYMENTS**

9 No individual who receives supplemental security income benefits
10 under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.],
11 State supplementary payments described in section 1616 of such Act
12 [42 U.S.C. 1382e], or payments of the type referred to in section
13 212(a) of Public Law 93–66, as amended, shall be considered to be a
14 member of a household for any month, if, for such month, such
15 individual resides in a State which provides State supplementary
16 payments (1) of the type described in section 1616(a) of the Social
17 Security Act [42 U.S.C. 1382e(a)] and section 212(a) of Public Law
18 93–66, and (2) the level of which has been found by the
19 Commissioner of Social Security to have been specifically increased
20 so as to include the bonus value of food stamps.

21 This provision was enacted in substantially the same form as part of the Food Stamp Act of 1977.
22 Pub. L. 95-113, Title XIII, Section 6(g) (Sept. 29, 1977).

23 The Food Stamp Act authorizes the USDA to “issue such regulations consistent with this
24 chapter as the Secretary deems necessary or appropriate for the effective and efficient
25 administration of the supplemental nutrition assistance program” 7 U.S.C. 2013(c).

26 Pursuant to this authority, on May 2, 1978, the USDA issued proposed regulations implementing
27 the 1977 amendment to the Food Stamp Act. 43 Fed. Reg. 18874. These proposed regulations
28 included a regulation implementing the then-current version of 7 U.S.C. § 2015(g). 43 Fed. Reg.
18874, 18918. After reviewing comments regarding the proposed rules, on October 17, 1978, the
USDA issued a final version of the regulation, providing:

(b) *Receipt of SSI benefits.* In [cash-out states], an individual must actually receive, not merely have applied for, SSI benefits to be determined ineligible for the food stamp program. If the State agency provides payments at least equal to the level of SSI benefits to individuals who have applied for but are awaiting an SSI eligibility determination, receipt of these substitute payments will terminate the individual’s eligibility for food stamp benefits. Once

1 SSI benefits are received, the individual will remain ineligible for
2 food stamp benefits, even during months in which receipt of the SSI
benefits is interrupted, or suspended, until the individual is
terminated from the SSI program.

3 43 Fed. Reg. 47898. The current version of this regulation, 7 C.F.R. § 273.20(b), remains
4 unchanged.

5 **C. Plaintiff's Claim**

6 The facts underlying Plaintiff's claim are not in dispute. In July 2013, Plaintiff was
7 homeless and residing in Humboldt County, California. On July 30, 2013, Plaintiff submitted an
8 application to Humboldt County for CalFresh benefits and was approved.

9 On October 23, 2013, Plaintiff applied to the SSA for SSI benefits, as well as for SSDI
10 benefits. In February 2014, SSA approved Plaintiff for SSI benefits. On February 18, 2014, SSA
11 deposited a lump sum amount into Plaintiff's bank account to cover the amount of SSI benefits
12 owed to Plaintiff for November 2013 through January 2014. On February 28, 2014, SSA
13 informed Plaintiff that he had been approved for SSDI benefits and would start to receive a
14 monthly SSDI benefit check in March 2014. Because Plaintiff's income from his SSDI benefits
15 exceeded the limit above which individuals no longer qualify for SSI benefits, Plaintiff's SSI
16 status was suspended and he received no additional SSI benefits after the lump sum February 18,
17 2014 payment.

18 On May 16, 2014, Humboldt County sent Plaintiff a Notice of Action informing him that
19 his CalFresh benefits would be terminated effective May 31, 2014 because he was "receiving aid
20 from SSI/SSP program." On June 24, 2014, Humboldt County issued a second Notice of Action
21 to Plaintiff, notifying him that he should not have received CalFresh benefits for the months of
22 December 1, 2013 through May 31, 2014 and demanding that Plaintiff repay the overissuance.
23 Plaintiff challenged his termination from CalFresh, as well as Humboldt County's demand that he
24 repay the overissuance. After several hearings, an Administrative Law Judge determined that
25 Plaintiff was ineligible for CalFresh because "SSI/SSP recipients in California are ineligible to
26 receive CalFresh benefits." In so ruling, the Administrative Law Judge specifically relied on the
27 challenged regulation, 7 C.F.R. § 273.20. The Administrative Law Judge also determined that
28 Plaintiff owed Humboldt County reimbursement for the months of February through May 2014,

1 but not for the months of December 2013 or January 2014 because Plaintiff had not actually
2 received his lump sum SSI payment until February 2014.¹

3 Plaintiff requested voluntary termination from SSI in July 2014. His eligibility for SSI was
4 terminated effective August 1, 2014, at which point he became eligible for CalFresh benefits
5 again.

6 **D. Jurisdiction**

7 The Court has jurisdiction over Plaintiff's APA claim, as well as Plaintiff's claim for
8 declaratory relief against the USDA, under 28 U.S.C. § 1331. As further explained below, the
9 Court has jurisdiction over Plaintiff's claims against CDSS under 28 U.S.C. § 1331 because
10 Plaintiff's second cause of action, while created by state law, "turn[s] exclusively on federal law."
11 City of Chicago v. Int'l College of Surgeons, 522 U.S. 156, 164 (1997).

12 **II. LEGAL STANDARD**

13 Summary judgment is proper when a "movant shows that there is no genuine dispute as to
14 any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a).
15 "A party asserting that a fact cannot be or is genuinely disputed must support the assertion by"
16 citing to depositions, documents, affidavits, or other materials. Fed. R. Civ. P. 56(c)(1)(A). A
17 party also may show that such materials "do not establish the absence or presence of a genuine
18 dispute, or that an adverse party cannot produce admissible evidence to support the fact." Fed. R.
19 Civ. P. 56(c)(1)(B). An issue is "genuine" only if there is sufficient evidence for a reasonable
20 fact-finder to find for the non-moving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248–
21 49 (1986). A fact is "material" if the fact may affect the outcome of the case. Id. at 248. "In
22 considering a motion for summary judgment, the court may not weigh the evidence or make
23 credibility determinations, and is required to draw all inferences in a light most favorable to the
24 non-moving party." Freeman v. Arpaio, 125 F.3d 732, 735 (9th Cir. 1997).

25 _____
26 ¹ 7 C.F.R. § 273.20(b) provides, in part: "In [cash-out states], an individual must *actually receive*,
27 not merely have applied for, SSI benefits to be determined ineligible for the food stamp program."
28 (emphasis added). Plaintiff does not challenge this portion of the regulation. Rather, Plaintiff
challenges only the portion of the regulation, which provides: "Once SSI benefits are received, the
individual will remain ineligible for food stamp benefits, even during months in which receipt of
the SSI benefits is interrupted, or suspended, until the individual is terminated from the SSI
program."

1 Where the party moving for summary judgment would bear the burden of proof at trial,
2 that party bears the initial burden of producing evidence that would entitle it to a directed verdict if
3 uncontroverted at trial. See C.A.R. Transp. Brokerage Co. v. Darden Rests., Inc., 213 F.3d 474,
4 480 (9th Cir. 2000). Where the party moving for summary judgment would not bear the burden of
5 proof at trial, that party bears the initial burden of either producing evidence that negates an
6 essential element of the non-moving party's claim, or showing that the non-moving party does not
7 have enough evidence of an essential element to carry its ultimate burden of persuasion at trial. If
8 the moving party satisfies its initial burden of production, then the non-moving party must produce
9 admissible evidence to show that a genuine issue of material fact exists. See Nissan Fire & Marine
10 Ins. Co. v. Fritz Cos., 210 F.3d 1099, 1102–03 (9th Cir. 2000). The non-moving party must
11 "identify with reasonable particularity the evidence that precludes summary judgment." Keenan v.
12 Allan, 91 F.3d 1275, 1279 (9th Cir. 1996). Indeed, it is not the duty of the district court to "to
13 scour the record in search of a genuine issue of triable fact." Id. "A mere scintilla of evidence
14 will not be sufficient to defeat a properly supported motion for summary judgment; rather, the
15 nonmoving party must introduce some significant probative evidence tending to support the
16 complaint." Summers v. Teichert & Son, Inc., 127 F.3d 1150, 1152 (9th Cir. 1997) (citation and
17 internal quotation marks omitted). If the non-moving party fails to make this showing, the moving
18 party is entitled to summary judgment. Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986).

19 **III. PLAINTIFF'S AND THE USDA'S CROSS-MOTIONS FOR SUMMARY** 20 **JUDGMENT**

21 Plaintiff's first claim asserts that the USDA violated 5 U.S.C. § 706 of the APA when it
22 promulgated the challenged regulation, 7 C.F.R. § 273.20(b), implementing 7 U.S.C. § 2015(g).
23 In particular, Plaintiff challenges the last sentence of 7 C.F.R. § 273.20(b), which provides:

24 Once SSI benefits are received, the individual will remain ineligible
25 for food stamp benefits, even during months in which receipt of the
26 SSI benefits is interrupted, or suspended, until the individual is
27 terminated from the SSI program.

28 According to Plaintiff, this portion of the challenged regulation contravenes 7 U.S.C. § 2015(g),
which provides:

No individual who *receives* [SSI or SSP benefits] . . . shall be
considered to be [eligible for food stamps] for any month, if, for

1 such month, such individual resides in a [cash-out State, such as
2 California] which provides [SSP benefits which] have been
specifically increased so as to include the bonus value of food
stamps.

3 (emphasis added). Plaintiff argues that “[t]he language and statutory context of Section 2015(g)
4 are clear that only individuals *receiving* SSI/SSP benefits in cash-out states are excluded from the
5 SNAP program.” ECF No. 43 at 13 (emphasis added). As Plaintiff sees it, the challenged
6 regulation is “inconsistent with the statutory language because it also excludes individuals who are
7 *not* receiving SSI/SSP benefits,” but who instead received such benefits at some point in the past
8 and whose benefits are currently suspended.² Id.

9 **A. Background Law**

10 In reviewing “an agency’s construction of the statute which it administers,” courts apply
11 the two-step framework described in Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc., 467
12 U.S. 837, 842 (1984). First, the court asks “whether Congress has directly spoken to the precise
13 question at issue.” Id. “If the intent of Congress is clear, that is the end of the matter; for the
14 court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.”
15 Id. at 842–43. “If a court, employing traditional tools of statutory construction, ascertains that
16 Congress had an intention on the precise question at issue, that intention is the law and must be
17 given effect.” Id. at 843 n.9.

18 If, however, “the statute is silent or ambiguous with respect to the specific issue,” the court
19 must proceed to the second step of the analysis and ask “whether the agency’s [interpretation] is
20 based on a permissible construction of the statute.” Id. at 843. In answering this second question,
21 “[t]he court need not conclude that the agency construction was the only one it permissibly could
22 have adopted to uphold the construction, or even the reading the court would have reached if the
23 question initially had arisen in a judicial proceeding.” Id. at 843. n.11. Rather, the court need
24 only conclude that the agency’s interpretation is “reasonable.” Id. at 843.

25
26 ² In Plaintiff’s case, he received SSI benefits in the form of a lump sum payment in February
27 2014. He did not receive SSI benefits in March through May of 2014. Humboldt County sought
28 reimbursement from Plaintiff for the SNAP benefits it had issued to Plaintiff during these three
months. The Administrative Law Judge relied on 7 C.F.R. § 273.20 in concluding that Plaintiff
was not owed SNAP benefits during these three months, despite the fact that he was no longer
currently receiving SSI benefits.

B. Discussion

Looking first to the text of the statute itself, 7 U.S.C. § 2015(g) provides that “[n]o individual who receives [SSI or SSP benefits] . . . shall be considered to be [eligible for food stamps] for any month, if, for such month, such individual resides in a State which provides [SSP payments,] the level of which has been found by the Commissioner of Social security to have been specifically increased so as to include the bonus value of food stamps.” Plaintiff argues that this provision unambiguously expresses Congress’ “intent that individuals be eligible to participate in the [food stamp] program unless they receive SSI/SSP funds.” ECF No. 46 at 7. The USDA responds that the provision “does not unambiguously compel Plaintiff’s interpretation of the word ‘receives’” because the provision “does not refer to an individual who *currently* or *continuously* receives such payments.” ECF No. 41 at 18–19 (emphasis in original).³

The Court concludes at step one of the *Chevron* analysis that the text of the statute unambiguously forecloses the USDA’s interpretation. As Plaintiff argues, “[b]ecause the statute uses the present tense ‘receives,’⁴ case law directs that only people who currently receive SSI or [SSP] payments are categorically excluded from the SNAP program.” ECF No. 46 at 9. “The use of the present tense in a statute strongly suggests it does not extend to past actions.” Sherley v. Sebelius,⁵ 644 F.3d 388, 394 (D.C. Cir. 2011). Indeed, The Dictionary Act⁶ provides that “unless

³ Merriam-Webster’s Collegiate Dictionary defines “receive” to mean “to come into possession of.” Merriam-Webster’s Collegiate Dictionary 1038 (11th ed. 2003). The Oxford English Dictionary defines it to mean “take or accept into one’s hands or one’s possession (something offered or given); accept delivery of (a thing sent); be a recipient (of).” New Shorter Oxford English Dictionary 2499 (1993). Anyone whose SSI benefits are on suspended status obviously does not “come into possession of” SSI benefits, does not “accept” them, and is not “a recipient of” them.

⁴ The term “receives” is not defined by the statute. Accordingly, the Court interprets it “by employing the ordinary, contemporary, and common meaning of the word[] that Congress used.” Arizona v. Tohono O’odham Nation, 818 F.3d 549, 556 (9th Cir. 2016) (internal quotation marks omitted).

⁵ While the Sherley court did find the statute in question to be ambiguous and therefore proceeded to step two of the Chevron analysis, it did so based on Plaintiffs’ argument in that case that another statutory term (“research”) was broad enough to incorporate an “extended process,” occurring both at the time of a “discrete project” and in the past. 644 F.3d at 394. As a result, the Court found the agencies’ argument based on the use of the present tense did not unambiguously foreclose Plaintiffs’ interpretation. By contrast, here, no other language in 7 U.S.C. § 2015(g) suggests that “receive” should incorporate an individual’s receiving benefits in the past.

⁶ “The Dictionary Act ‘provides general rules of statutory construction’ applicable to the United States Code.” United States v. Jackson, 480 F.3d 1014, 1019 (9th Cir. 2007) (quoting United

1 the context indicates otherwise . . . words used in the present tense include the future as well as the
 2 present.” 1 U.S.C. § 1. This provision implies that “the present tense generally does not include
 3 the past.” Carr v. United States, 560 U.S. 438, 448 (2010). See also United States v. Jackson, 480
 4 F.3d 1014, 1019 (9th Cir. 2007) (reviewing the text of the Dictionary Act, and noting that
 5 “Congress did *not* say that its usage of the present tense applies to past actions, an omission that,
 6 given the precision of the Dictionary Act in this regard, could not have been an oversight.”)
 7 (emphasis in original); Bonnichsen v. United States, 367 F.3d 864, 875 (9th Cir. 2004) (finding
 8 that because “[t]he text of the relevant statutory clause is written in the present tense (‘of, or
 9 relating to, a tribe, people, or culture *that is* indigenous’) . . . the statute *unambiguously* requires
 10 that human remains bear some relationship to a *presently existing* tribe, people, or culture to be
 11 considered Native American.”) (second emphasis added).

12 The USDA’s interpretation, by contrast, holds that “[o]nce SSI benefits are received, the
 13 individual will remain ineligible for food stamp benefits, *even during months in which receipt of*
 14 *the SSI benefits is interrupted, or suspended . . .*” 7 U.S.C. § 273.20 (emphasis added). In this
 15 way, the USDA construes the present tense verb “receives” to include an individual’s having
 16 received benefits in the past “even during months in which receipt of the SSI benefits is
 17 interrupted, or suspended.” Id. That is, an individual is deemed to “receive” SSI benefits so long
 18 as that individual received such benefits at some point in the past, even if the individual is no
 19 longer currently receiving the benefits. Such a construction is directly at odds with Congress’ use
 20 of the present tense in 7 U.S.C. § 2015(g).

21 The USDA responds by arguing that “[i]t is well-recognized that a statute’s use of ‘[t]he
 22 present tense is commonly used to refer to past, present, and future all at the same time.’” ECF
 23 No. 41 at 19 (citing Coalition for Clean Air v. S. Cal. Edison Co., 971 F.2d 219, 225 (9th Cir.
 24 1992)). This principle, however, is far from “well-recognized.” Indeed, in Carr, the Supreme
 25 Court cast doubt on the Coalition for Clean Air’s invocation of this “commonly used” principle,
 26 noting that the Coalition for Clean Air court did not “offer[] [any] examples of such usage.” 560
 27

28 States v. Middleton, 231 F.3d 1207, 12010 (9th Cir. 2000)).

1 U.S. at 448 n.5. The Supreme Court went on to explain that “[p]erhaps, as the Dictionary Act
2 itself recognizes, there may be instances in which ‘context’ supports this sort of omnitemporality,
3 but it is not the typical understanding of the present tense in either normal discourse or statutory
4 construction.” Id.

5 Here, other language within 7 U.S.C. § 2015(g) makes clear that the statutory term
6 “receives” does not apply to receipt of SSI benefits in the past if an individual is not receiving SSI
7 benefits in a particular month. 7 U.S.C. § 2015(g) provides that “[n]o individual who receives
8 [SSI or SSP benefits] . . . shall be considered to be [eligible for food stamps] *for any month*, if, *for*
9 *such month*, such individual resides in a [cash-out State].” (emphasis added). That is, the
10 provision contemplates that eligibility for food stamps will be assessed on a monthly basis. If for
11 any particular month an individual resides in a cash-out State where the SSP payments have “been
12 found by the Commissioner of Social security to have been specifically increased so as to include
13 the bonus value of food stamps,” 7 U.S.C. § 2015(g), then for that month, the individual cannot
14 receive food stamps in addition to SSI benefits. The fact that the statute specifically requires this
15 assessment to be made on a month-to-month basis supports Plaintiff’s argument that the present
16 tense use of the verb “receives” means just what it says. By contrast, no other language in the
17 provision itself supports a reading of “receive” that would encompass receipt of SSI benefits in the
18 past.⁷

19 The USDA also argues that the challenged regulation is “consistent with the legislative
20 history of the Food Stamp Act.” ECF No. 44 at 27. However, because the Court has already
21 determined that “the plain meaning of the statute is unambiguous, that meaning is controlling and
22 [the Court] need not examine legislative history as an aid to interpretation unless the legislative
23

24 ⁷ The Court also rejects the USDA’s argument premised on the fact that the Department’s own
25 interpretation of the statutory term “receives” is internally consistent with other regulations the
26 Department has issued regarding the Food Stamp Act. ECF No. 41 at 20. While the Court would
27 certainly consider other provisions of the Food Stamp Act itself which hypothetically used
28 “receive” in a manner consistent with the USDA’s interpretation here, the USDA does not cite any
authority supporting its suggestion that the Court ought to use the USDA’s promulgation of
regulations regarding other sections of the Food Stamp Act in interpreting 7 U.S.C. § 2015(g) at
the first step of the *Chevron* analysis. Internally consistent as these regulations may be, such
consistency does not help the Court to interpret Congress’ intent in enacting 7 U.S.C. § 2015(g).

1 history clearly indicates that Congress meant something other than what it said.” Close v.
 2 Thomas, 653 F.3d 970, 975 (9th Cir. 2011) (internal quotation marks omitted). The USDA does
 3 not cite to any legislative history on point. Rather, the USDA relies on general provisions of the
 4 Food Stamp Act, providing that Congress’ goals in enacting the statute included “hold[ing]
 5 program costs close to current program levels” and “simplify[ing] administration.” ECF No. 44 at
 6 27 (quoting H.R. Rep. No. 95-464, 1 (1977)); ECF No. 41 at 21–23. Because the legislative
 7 history does not “clearly indicate[] that Congress meant something other than what it said,” the
 8 Court need not examine it to aid its interpretation of the statute.

9 Finally, the USDA argues that “Congress affirmed USDA’s interpretation [of the
 10 challenged regulation] by reenacting the relevant provision of the Food Stamp Act without
 11 change.” ECF No. 44 at 29; ECF No. 41 at 23–24. According to the USDA, since the challenged
 12 regulation was promulgated, “the Food Stamp Act has been amended by Congress over twenty
 13 times, most recently by the Food and Nutrition Act of 2008, which was enacted July 22, 2014.”
 14 ECF No. 41 at 19. “By repeatedly amending the Food Stamp Act, and yet reenacting Section
 15 2015(g) of the statute without change, Congress effectively accepted USDA’s interpretation of
 16 what it means to be an ‘individual who receives’ SSI and SSP in cash-out states.” Id. (citing
 17 Commodity Futures Trading Comm’n v. Schor, 478 U.S. 833, 845–46 (1986)).

18 This argument is unpersuasive. Unlike in some of the authority cited by the USDA in
 19 which Congress “explicitly affirmed” the agency’s interpretation of a statute through amendments
 20 to the legislation in question, Schor, 478 U.S. at 846, the USDA provides no evidence that any
 21 member of Congress was ever aware of its interpretation of the 7 U.S.C. § 2015(g), let alone that
 22 Congress “explicitly affirmed” that interpretation. In such circumstances, “we consider the . . . re-
 23 enactment to be without significance.” Brown v. Gardener, 513 U.S. 115, 121 (1994) (quoting
 24 United States v. Calamaro, 354 U.S. 351, 359 (1957)). Moreover, where, as here, “the law is
 25 plain, subsequent reenactment does not constitute an adoption of a previous administrative
 26 construction.” Gardener, 513 U.S. at 121 (quoting Demarest v. Manspeaker, 498 U.S. 184, 190
 27 (1991)). See also id. (citing Mass. Trustees of Eastern Gas & Fuel Assocs. v. United States, 377
 28 U.S. 235, 241–42 (1964) for the proposition that “congressional reenactment has no interpretive

1 effect where regulations clearly contradict requirements of statute”).

2 Ultimately, the Court concludes that the USDA’s interpretation of 7 U.S.C. § 2015(g) fails
3 at step one of the Chevron analysis. Accordingly, the Court grants Plaintiff’s Motion for
4 Summary Judgment and denies the USDA’s Motion for Summary Judgment.

5 **IV. PLAINTIFF’S AND CDSS’S CROSS-MOTIONS FOR SUMMARY JUDGMENT**

6 Plaintiff’s second claim seeks a writ of mandate under California Code of Civil Procedure
7 section 1094.5. Specifically, Plaintiff argues that this court may set aside the Administrative Law
8 Judge’s decision holding that Plaintiff owed Humboldt County reimbursement for the months of
9 February through May 2014 because that decision, which relied on 7 C.F.R. § 273.20(b), was
10 contrary to 7 U.S.C. § 2015(g). See Cal. Code Civ. Pro. § 1094.5(b), (f). CDSS offers three
11 arguments in opposition to Plaintiff’s Motion for Summary Judgment and in support of its own
12 Motion for Summary Judgment on Plaintiff’s second claim.

13 **A. Subject Matter Jurisdiction**

14 First, CDSS argues that the Court lacks subject matter jurisdiction because the sole cause
15 of action against CDSS, California Code of Civil Procedure section 1094.5, is a state law cause of
16 action. ECF No. 42 at 12. The Court disagrees.

17 28 U.S.C. § 1331 provides: “The district courts shall have original jurisdiction of all civil
18 actions arising under the Constitution, laws, or treaties of the United States.” According to the
19 “well-pleaded complaint” rule, “a cause of action arises under federal law only when the
20 plaintiff’s well-pleaded complaint raises issues of federal law.” Metro. Life Ins. Co. v. Taylor,
21 481 U.S. 58, 63 (1987). Although the “well-pleaded complaint” rule . . . severely limits the
22 number of cases in which state law ‘creates the cause of action’ that may be initiated in . . . federal
23 district court,” causes of action created by state law “might still ‘arise under’ the laws of the
24 United States if a well-pleaded complaint established that [the plaintiff’s] right to relief under state
25 law requires resolution of a substantial question of federal law in dispute between the parties.”
26 Franchise Tax Bd. of State of Cal. v. Constr. Laborers Vacation Trust for S. California, 463 U.S.
27 1, 13 (1983). Plaintiff’s second cause of action, while created by state law, “turn[s] exclusively on
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1 federal law” because the only question in dispute between the parties is whether the challenged
2 regulation is a permissible interpretation of 7 U.S.C. § 2015(g). City of Chicago v. Int’l College
3 of Surgeons, 522 U.S. 156, 164 (1997). Accordingly, Plaintiff’s second claim fits within the well-
4 pleaded complaint rule. Id.; Grable & Sons Metal Products, Inc. v. Darue Eng’g & Mfg., 545 U.S.
5 308, 314 (2005) (federal question jurisdiction exists where “a state-law claim necessarily raise[s] a
6 stated federal issue, actually disputed and substantial, which a federal forum may entertain without
7 disturbing any congressionally approved balance of federal and state judicial responsibilities.”).⁸

8 **B. Eleventh Amendment Bar**

9 “Because of the Eleventh Amendment, States may [generally] not be sued in federal court
10 unless they consent to it in unequivocal terms or unless Congress, pursuant to a valid exercise of
11 power, unequivocally expresses its intent to abrogate the immunity.” Green v. Mansour, 474 U.S.
12 64, 68 (1985). However, “a federal court, consistent with the Eleventh Amendment, may enjoin
13 state officials to conform their *future* conduct to the requirements of federal law, even though such
14 an injunction may have an ancillary effect on the state treasury.” Quern v. Jordan, 440 U.S. 332,
15 337 (1979) (emphasis added). Thus, “a suit for prospective injunctive relief provides a narrow,
16 but well-established, exception to Eleventh Amendment immunity.” Doe v. Lawrence Livermore
17 Nat. Lab., 131 F.3d 836, 839 (9th Cir. 1997). See also Hason v. Medical Board of California, 279
18 F.3d 1167, 1171 (9th Cir. 2002) (“The *Ex Parte Young* doctrine provides that the Eleventh
19 Amendment does not bar suits for prospective injunctive relief brought against state officers “in
20 their official capacities, to enjoin an alleged ongoing violation of federal law.”).

21 CDSS asserts that “the Eleventh Amendment bars Plaintiff’s claim against [it] in federal
22 Court” because “Plaintiff seeks an order from this Court to retroactively grant him CalFresh
23 benefits for a short three month period two years ago.” ECF No. 42 at 9. Plaintiff responds that
24 “[c]ontrary to the Director’s assertion, [he] is not here requesting ‘retroactive monetary relief,’”
25 which would be barred by the Eleventh Amendment. ECF No. 47 at 14. “Rather, the relief that
26 [Plaintiff] requests is forward-looking in that it requires the Director to reverse his [prior] decision
27

28 ⁸ Because the Court concludes that federal question jurisdiction exists, it need not address Plaintiff’s argument in the alternative that supplemental jurisdiction exists. See ECF No. 47 at 9.

1 and make a new determination about [Plaintiff’s] eligibility in light of the Court’s conclusion on
2 the merits.” Id.

3 The Court agrees with Plaintiff. Under California Code of Civil Procedure section
4 1094.5(f), if the court grants a writ of mandate, “it may order the reconsideration of the case in
5 light of the court’s opinion and judgment and may order respondent to take such further action as
6 is specially enjoined upon it by law.” Plaintiff requests just this: that the Court order CDSS to
7 “make a new determination about [Plaintiff’s] eligibility [for SNAP benefits between March 2014
8 and May 2014] in light of the Court’s conclusion on the merits.” ECF No. 47 at 14. Because
9 Plaintiff seeks “prospective injunctive relief,” the Eleventh Amendment does not bar his claim
10 against CDSS.

11 **C. The Merits of Plaintiff’s Claim for a Writ of Mandate**

12 Under California Code of Civil Procedure section 1094.5(a) & (b), a writ of mandate may
13 be issued “for the purpose of inquiring into the validity of any final administrative order” if “the
14 respondent has proceeded without, or in excess of, jurisdiction” or “there was [a] prejudicial abuse
15 of discretion.” “Abuse of discretion is established if the respondent has not proceeded in the
16 manner required by law, the order or decision is not supported by the findings, or the findings are
17 not supported by the evidence.” Cal. Code Civ. Pro § 1094.5(b).

18 The Administrative Law Judge determined that Plaintiff was ineligible for CalFresh
19 because “SSI/SSP recipients in California are ineligible to receive CalFresh benefits.” In so
20 ruling, the Administrative Law Judge relied on the challenged regulation, 7 C.F.R. § 273.20. In
21 Plaintiff’s Motion for Summary Judgment, Plaintiff asserts that this Court should issue a writ of
22 mandate to the CDSS because the CDSS’ “decisions upholding the termination of [Plaintiff] from
23 the CalFresh program and the determination that he received an overissuance from March through
24 May 2014 are contrary to law,” that is contrary to 7 U.S.C. § 2015(g). ECF No. 43 at 19.

25 In CDSS’ Motion for Summary Judgment, CDSS responds that a writ of mandate may not
26 be issued because “at the time the [Administrative Law Judges’] decisions issued, the federal
27 regulation applied and the [Administrative Law Judges] were required to rule in accordance with
28 the regulation.” ECF No. 42 at 16. This response is not persuasive. As Plaintiff correctly argues

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1 in his Reply Brief, “[t]he fact that the administrative law judge followed the federal regulation
2 does not make the decision legally correct.” ECF No. 50 at 9. The Court has ruled that the federal
3 regulation on which the administrative law judge relied was, itself, contrary to 7 U.S.C. section
4 2015(g). CDSS does not cite any authority for the proposition that a writ of mandate should not
5 be issued where an administrative agency issues a ruling premised on a regulation, which
6 regulation was subsequently determined to be inconsistent with the underlying statute.

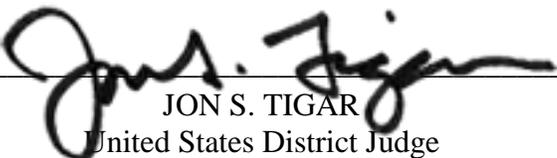
7 Accordingly, the Court concludes that the Administrative Law Judge’s ruling that Plaintiff
8 was not eligible for CalFresh benefits from March 2014 through May 2014 (and therefore owed
9 Humboldt County reimbursement for the overissuance Plaintiff received for those months) was
10 contrary to the law. The Court will therefore issue a writ of mandate to the CDSS and order the
11 CDSS to re-evaluate Plaintiff’s claim consistent with this order.

12 **CONCLUSION**

13 The Court grants Plaintiff’s Motion for Summary Judgment and denies the USDA’s
14 Motion for Summary Judgment. The Court also denies Defendant Will Lightbourne’s Motion for
15 Summary Judgment.

16 IT IS SO ORDERED.

17 Dated: June 30, 2016

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19 JON S. TIGAR
20 United States District Judge

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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA

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7 HECTOR RIOJAS,
8 Plaintiff,

Case No. 15-cv-03592-JST

9 v.

JUDGMENT

10 U.S. DEPARTMENT OF AGRICULTURE,
11 et al.,

Re: ECF No. 59

Defendants.

12
13 Having considered the parties' Motions for Summary Judgment (ECF Nos. 41, 42, 43), the
14 state and federal administrative records, and the parties' oral arguments made on June 30, 2016,
15 the Court orders and adjudges as follows:

- 16
- 17 1. Plaintiff's Motion for Summary Judgment (ECF No. 43) is GRANTED in full.
 - 18 2. Defendants United States Department of Agriculture and Tom Vilsack's Motion for
19 Summary Judgment (ECF No. 41) is DENIED.
 - 20 3. Defendant Will Lightbourne's Motion for Summary Judgment (ECF No. 42) is
21 DENIED.
 - 22 4. The Court declares that 7 C.F.R. section 273.20(b) is unlawful, to the extent it provides
23 that "[i]n California . . . , [o]nce SSI benefits are received, the individual will remain
24 ineligible for food stamp benefits, even during months in which receipt of the SSI
25 benefits is interrupted, or suspended, until the individual is terminated from the SSI
26 program," as this provision is inconsistent with the text of 7 U.S.C. section 2015(g).
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5. 7 C.F.R. section 273.20(b) providing that in California, “[o]nce SSI benefits are received, the individual will remain ineligible for food stamp benefits, even during months in which receipt of the SSI benefits is interrupted, or suspended, until the individual is terminated from the SSI program,” is hereby vacated. The matter is remanded to Defendants USDA and Vilsack to take further action consistent with 7 U.S.C. section 2015(g), this judgment, and the court’s June 30, 2016 order (ECF No. 52).

6. A writ shall issue to command Defendant Lightbourne to:

- a. Within 60 days of this judgment, set aside the California Department of Social Service’s decision in *In the Matter of Hector Riojas*, Hearing No. 2014147398, and to reconsider the case in light of the court’s June 30, 2016 order and this judgment; and
- b. Within 60 days of this judgment, set aside the California Department of Social Service’s decision in *In the Matter of Hector Riojas*, Hearing No. 2014197382, and to reconsider the case in light of the court’s June 30, 2016 order and this judgment.

IT IS SO ORDERED.

Dated: August 30, 2016

JON S. TIGAR
United States District Judge