

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



February 15, 2001

ALL-COUNTY INFORMATION NOTICE NO. I-13-01

TO: COUNTY WELFARE DIRECTORS
WELFARE-TO-WORK COORDINATORS
FOOD STAMP COORDINATORS

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: 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 Technical Review Team (TRT) and the answers submitted to TRT for review and comments before being finalized by the Food Stamp Bureau. As requested by TRT county representatives, Questions and Answers (Q&A's) are separated and categorized for ease of reference by county staff. In addition, an attachment is included for Income Question #1 as county representatives requested an expanded explanation of the gift and lump sum payment concepts.

If you have any questions, please contact the policy analyst assigned that area of the regulations.

Sincerely,

Original document signed by

GARY SWANSON, Chief
Food Stamp Branch

Attachment

FOOD STAMP PROGRAM POLICY QUESTIONS AND ANSWERS

FAILURE TO COMPLY

QUESTION #1

A legal noncitizen who is eligible for California Work Opportunity and Responsibility to Kids (CalWORKs), but not food stamps, is GAIN sanctioned. What action, if any, should the county take with regard to the CalWORKs income? Assume the household receives no other income.

ANSWER

Assuming nothing else in the scenario has changed, the food stamp benefits shall not be increased but shall remain the same as before the sanction when a household is penalized for failing to comply with another assistance program per Manual of Policy and Procedures (MPP) 63-503.51. Therefore, the county is to base the food stamp allotment on the CalWORKs income that was in effect for the household before the CalWORKs sanction was imposed.

DRUG FELON

QUESTION #2

Per All-County Letter (ACL) 97-41, implementation of the drug felony conviction is effective 9/1/97 for all applicants and for recipients at recertification, when the case is next reviewed, or when the CWD becomes aware that a review is needed. When is an overissuance effective in the following circumstance?

- a. A client is a cash aid transfer-in 4/97 and receives food stamps from the new county effective 4/97 (prior to the availability of written directives that include self-declaration). In February 1998 the client submits a January CA 7 that indicates that she is a drug felon and was convicted in 1997. Is there an overissuance and if so, when should it begin? What type of overissuance?

ANSWER

The effective date of implementation of the drug felon exclusion in this case is subject to the provisions noted in ACL 97-41. The county became aware in February 1998 of the client's drug felony conviction. Therefore, the client's ineligibility for program benefits would be effective March 1, 1998. If the county acted timely to terminate benefits for the client by that date, there would be no overissuance in this case.

- b. At recertification in December 1997 a household fails to report a household member was convicted of a drug felony in 1996. The county becomes aware of the drug felony conviction in February 1998. When does the overissuance begin- from the date of conviction (September 1996), date of implementation (September 1997), or date of the recertification (December 1997) when the household signed under penalty of perjury?

ANSWER

Assuming the September 1996 conviction was for a crime committed after August 22, 1996, the effective date of implementation of the drug felon exclusion in this case is subject to the "at recertification" provision noted in ACL 97-41. If the client had provided the information concerning the drug felony conviction at recertification as required, his/her ineligibility for program benefits would have been effective January 1998. Therefore, the first month of overissuance in this case would be January 1998.

INCOME (RE: GIFTS)

QUESTION #3

- a. A prospectively budgeted food stamp household (HH) reports receiving a \$50 gift for utilities at time of application. Does any or all of it count? If it were for a child's birthday, would it be handled differently?
- b. A retrospectively budgeted food stamp HH with prospectively budgeted cash aid reports receiving a \$50 gift for utilities at application. Does any or all of it count? If it were for a child's birthday, would it be handled differently?
- c. Same client reports on the CW 7 receiving an additional \$25 gift for her birthday. How is this handled? If it were to pay her garbage bill would that change how it is treated?
- d. Food stamp HH receives \$200 from her father for her birthday. That is all we know. Do we need to clarify whether it is earmarked for education, support, or maintenance? Is it totally exempt?
- e. Does it matter what the gift money is intended?

ANSWER

Per United States Department of Agriculture's Food and Nutrition Service, unless specifically exempt (MPP 63-502.2), cash gifts are treated as unearned income. Based on current regulations, none of the gifts identified in your examples above have been specifically exempt as income, and therefore are to be counted as unearned income for food stamp purposes.

INCOME (Cont'd)

QUESTION #4

Food stamp HH failed to report an infrequent cash gift received prior to the county granting benefits. Do we go back and create an overissuance? If we count it, is any of it exempt at any time?

ANSWER

Where a food stamp HH failed to report a cash gift prior to the county granting benefits, there may be time to notify the HH and make adjustments before benefits are issued. If it is too late to send the HH a 10-Day Notice, the county would make adjustments as soon as administratively feasible provided the HH sends in a completed CA 7 by the extended filing date (Saldivar Case/ MPP 63-504.382).

Please note that infrequent income is any prospectively budgeted income in the certification period, which is received too infrequently, or irregularly to be reasonably anticipated, but not in excess of \$30 in a quarter (MPP 63-502.2(d)). This means that except for the two beginning months that are prospectively budgeted, the principle of infrequent/irregular income does not apply in situations where a food stamp HH is reporting retrospectively.

In your scenario, if the food stamp HH received an unanticipated cash gift amounting to or exceeding the \$30 threshold in the month of application (prospectively budgeted), the amount would count. If the unanticipated cash gift did not amount to \$30, or more, it would not count.

(See ATTACHMENT for further gift and lump sum payment clarification.)

HH COMPOSITION

QUESTION #5

The California Food Assistance Program opened up our ability to recognize marriages that are not legal, with “couples” who hold themselves out to the community as “married”. What is the State’s policy for same sex marriages?

ANSWER

The State does not have a policy on same sex marriages. However, in the Food Stamp Program, a federal policy has been established, which acknowledges couples who hold themselves out to the community as “married”, for purposes of counting quarters of earnings to determine federal eligibility for noncitizens. This policy is based on state law that recognizes legal unions between men and women and which does not currently recognize marriages between same sex individuals. Therefore, the current policy for recognizing couples who hold themselves out to the community as “married” does not apply to same sex couples.

FEDERAL QUARTERS FOR NONCITIZENS

QUESTION #6

In determining Federal quarters, do you count quarters for CFAP and state CalWORKs individuals? Are state CalWORKs and CFAP considered means-tested?

ANSWER

MPP 63-405.4 states that no credit shall be countable if the individual who earned it received any federal means-tested public benefits. Two Parent Family (TPF) CalWORKs program and CFAP are state programs and not considered federal means-tested programs. Therefore, the quarters are counted in determining federal eligibility. Also if the non-citizen for whom the quarters are to be counted is a spouse or child of the person receiving CFAP and/or TPF benefits, the quarters may be counted for eligibility purposes and therefore not subject to MPP 63-405.4.

NONRECURRING LUMP-SUM PAYMENTS

All money or payment received by a Food Stamp household is treated either as earned/unearned income or as a resource. Manual of Policies and Procedures (MPP) Section 63-501 specifies when money is treated as earned or unearned income and MPP Section 63-501.1 when it is treated as a resource. Nonrecurring lump-sum payments are defined as resources for food stamp purposes. The following serves to clarify when a payment received by a household is nonrecurring lump-sum payment and treated as a resource.

INCOME

EARNED: Earned Income is defined as follows:

In accordance with MPP Section 63-502.13, earned income shall include, but is not limited to, all wages and salaries of an employee; the gross income from a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, excluding the costs of doing business, etc.

Examples of earned income under MPP Section 63-502.13 include, but are not limited to, sales commissions, a payment for the sale of business equipment, or payment for a crop sale. Income from sales commissions, sales of business equipment are not considered nonrecurring lump-sum payments. These payments are earnings, as they reflect the normal way of doing business and the normal way in which individuals in these occupations receive wages.

UNEARNED: Unearned Income is defined as follows:

MPP Section 63-502.14 lists all income that is considered unearned income for Food Stamp purposes. MPP Section 63-502.146 states that unearned income also includes “all other direct money payments from any source that can be construed to be a gain or benefit” to the household.

Examples of unearned income also include lottery winnings and cash gifts.

RESOURCE

MPP Section 501.1 specifies that a nonrecurring lump-sum payment is a resource in the month received. To be considered a nonrecurring lump payment, a payment must be money owed the household for a period prior to the current month; and/or represent a return of a payment/or a part of a payment that was in the past made by the household; and/or are a one-time payment resulting from a government policy/law.

Below are examples of the three types of nonrecurring lump-sum payments:

1. **Retroactive Payments:** Examples of such payments include court-ordered retroactive payments for any assistance program, railroad retirement benefits, retroactive public assistance payments, retroactive lump-sum social security, supplemental or corrective payments received for a previous month from any assistance program, and retroactive payments from the approval of an application for any assistance program.
2. **Return of Resources:** Examples include refunds of security deposits on rental property or utilities.
3. **One-time payment resulting from a government policy or law:** Examples include income tax refunds, rebates or credits, lump-sum insurance settlements.