

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



October 13, 2004

ALL-COUNTY INFORMATION NOTICE NO. I-73-04

TO: COUNTY WELFARE DIRECTORS
ALL 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 Food Stamp Committee. The answers were submitted to the committee for review and comments before being finalized by the Food Stamp Policy Bureau. As requested by the committee, Questions and Answers (Q&As) are separated and categorized by subject matter for ease of reference.

If you have any questions regarding the attached Q&As, please contact the policy analyst assigned to that area of the regulations.

Sincerely,

Original Document Signed By:

RIGHTON YEE, Chief
Food Stamp Branch

Attachment

HOUSEHOLD CONCEPT – FAILURE TO COMPLY WITH WELFARE TO WORK

Scenario: A CalWORKs Assistance Unit (AU) and Food Stamp (FS) household (HH) consists of a mother and two children. Mom is sanctioned in both programs for failure to comply with employment services.

QUESTION #1:

What amount of the CalWORKs grant is used in the FS budget (for three or two people)?

ANSWER:

If the client is non-compliant with WTW and does not have a food stamp employment training exemption, s/he would be an excluded member per Manual of Policies and Procedures (MPP) 63-402.228, which refers to individuals disqualified for non-compliance with work requirements. Therefore, the CalWORKs AU and the FS HH would both include two children and the CalWORKs income for two children is used to compute food stamp benefits.

QUESTION #2:

If a client is non-compliant with WTW and is deleted from CalWORKs and not FS, what amount of CalWORKs is used in the Food Stamp budget (TANF for three or two)?

ANSWER:

If the client is non-compliant with WTW and **does** have an exemption for food stamps, they would be included in the food stamp household. Per MPP 63-503.514, “the county shall calculate food stamp benefits using the CalWORKs benefit amount that would have been used if no penalty had been imposed.” As a result, because the household member remains eligible for food stamps, s/he would not be excluded from the food stamp household when determining the size, which in this scenario would be three. The full CalWORKs grant for three would be counted in the household’s food stamp budget.

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INCOME – CHILD SUPPORT PAYMENTS

QUESTION #3:

Is child support income intended to be paid to a child support agency, but received by the participant excluded from consideration in a Public Assistance Food Stamp (PAFS) case?

ANSWER:

In accordance with MPP 63-502.122, child support payments that are received by a CalWORKs household directly from a nonhousehold member and which must be turned over to the District Attorney are exempted as income regardless of whether the payments are actually turned over to the District Attorney.

INCOME – EXCLUDED

QUESTION #4:

MPP section 63-507(a)(15) lists excluded income received under Title V of the Older Americans Act. There is a client reporting income from the Senior Community Service Employment Program (SCSEP). This program is not listed in the regulations, but appears to be the same type of income. Is this income excluded?

ANSWER:

The Department of Labor Employment & Training Administration website states the SCSEP is authorized under Title V or the Older Americans Act of 1965. As a result, the income would be excluded per MPP 63-507(a)(15).

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INCOME – FOSTER CARE

QUESTION #5:

Is it an option to count the income of foster care children? Can foster care children be included in the food stamp household without counting their income?

ANSWER:

This is not a state option. MPP 63-402-322 provides that foster care children are either boarders and excluded (along with their income), or per MPP 63-402.141(a), part of the FS household, in which case their income is counted.

INCOME – HOMELESS SHELTER DEDUCTION

QUESTION #6:

Should the Homeless Standard Allowance always be allowed even if there is no verification?

ANSWER:

Under MPP 63-502-35 homeless individuals are only entitled to the homeless shelter allowance if they are not getting free shelter and reasonably expect to incur shelter costs during a month. The regulations also are clear that verification is not required but the county must document the reasonable expectation of the household to incur the expense.

QUESTION #7:

The client is a resident of a drug and alcohol treatment shelter facility. Is there a shelter deduction if the facility does not charge?

ANSWER:

No. A shelter deduction would not be allowed. If there is no charge for services and no client obligation, then there is not a shelter cost deduction per MPP 63-502.351.

QUESTION #8:

If a Non-assistance Food Stamp (NAFS) household client meets the definition of “homeless” (homeless prior to and after the facility stay), should the homeless shelter deduction be used rather than the shelter deduction (i.e. no utility cost)?

ANSWER:

A temporary residence at a drug and alcohol treatment facility does not in or of itself qualify the client as homeless. If the CWD determines the client meets the definition of homeless as provided in MPP 63-102(h)(2), and the client reasonably expects (MPP 63-502.353) to incur homeless shelter costs, then the homeless shelter deduction would be applicable rather than the shelter cost deduction (ACIN I-52-02). However, if the actual verified homeless shelter costs are higher than the homeless shelter deduction (MPP 63-502.351 through 63-502.354), the actual cost may be used to calculate the housing deduction instead of a homeless shelter deduction. Also utility costs may be claimed (63-502.361). The utility deduction is not available to a client using the homeless deduction because it is included in the cost component (MPP 63-502.351).

INCOME – HOMELESS SHELTER DEDUCTION

QUESTION #9:

If a client is charged a monthly “fee” to participate in the rehabilitation program, yet has no income to pay the “fee”, should the client be allowed a deduction for shelter cost?

ANSWER:

Yes, it is an obligation; the client is billed for shelter costs, therefore, the expense is an allowable shelter cost deduction.

QUESTION #10:

Can “program fees” charged by a drug/alcohol facility be considered a shelter cost deduction? Some facilities are hesitant to identify the charge as “rent/utilities”.

ANSWER:

Whatever portion is identified as shelter cost is a deductible expense.

INCOME – LOANS

QUESTION #11:

If a participant made a verbal repayment agreement, are loans excluded from consideration as income?

ANSWER:

No. If loans are to be excluded (MPP 63-300.5), the CWD needs a statement signed by both parties, which indicates that the payment is a loan and must be repaid. In addition, if it is still unclear whether regular payments received by the HH are loan payments or income, the county must take additional measures to determine that payments received by the HH are not regular income.

INCOME – VENDOR PAYMENT

QUESTION #12:

The client's monthly rent is \$700; however, her father (who resides elsewhere) pays half of her rent directly to her landlord. The participant completed an affidavit stating that the father loans her the money and has no plan of repayment. Should the money be treated as a loan or a vendor payment?

ANSWER:

Per MPP 63-502.2(b), money that is not legally obligated to be paid to the household, but which is paid directly to a third party for a household expense by a person or organization outside of the household is considered a vendor payment and excluded as income. In this case, half of the rent is paid by a person outside of the household, her father, and it is an expense that he is not legally obligated to pay and therefore it is excluded as income.

The client signed an affidavit stating that the income the landlord is receiving is from her father as a loan. The affidavit was not signed by both parties and did not include a repayment agreement. Because of this, in addition to the fact that MPP 63-300.5(f)(2) refers to these as "recurring payments", and as the payments are being made straight to the landlord without the household ever receiving it, the payments are not considered a loan. As a result, the household would only receive a shelter deduction for the portion of rent they paid and not the entire amount. For example if rent is \$700 and the participant only pays \$350, the participant could only claim \$350 as a shelter expense.

NOTICE OF ACTION (NOA) – TIMELY NOTICE OF ACTION

QUESTION #13:

What is considered the “effective date of change” when taking action on a FS case?

ANSWER:

The effective date of change means the date of the actual change to the HH’s eligibility of benefit level. For example, if the household reports an increase in income on June 5th and the household is notified that their benefits will be decreased on July 1st, the effective date of change is July 1st. MPP 63-50 4.264(a)(1) and (2) provide that a NOA be provided to the household at least 10 days before the effective date of a decrease in benefits or no later than the date the client receives an increase in benefits.

QUESTION #14:

Would Electronic Benefit Transfer (EBT) stagger an issuance date to provide the county with additional time to issue a NOA if there is a change in benefits?

ANSWER:

No. EBT staggered issuance policies will not accommodate a county’s need for additional time to issue a NOA to notify the household of a change in their benefits. Regardless of the household’s actual benefit issuance date, the effective date for a change in benefits is the 1st of the next issuance month and the counties are required to provide a NOA to the household at least 10 days prior to the 1st. Staggered issuance does not change the policy requirement that the county must send NOA 10 days prior to the date the change will become effective as provided in MPP 63-504.264 and MPP 63-504.353.

RESOURCES – SELF-EMPLOYED/EMPLOYEE

QUESTION #15:

When a person owns a business which has been incorporated and the person receives a salary as an employee from the corporation, is the individual considered self-employed or an employee? How do you treat the income that the corporation and the individual receive?

Scenario:

A couple is involved in a business in the following manner:

- They are on the title of a corporation. The corporation is filing taxes with form 1065 (U.S. return partnership income);
- The corporation is paying the husband, a wage as an employee of the corporation, and
- The couple is filing taxes with form 1040, listing zero under “wages, salaries, and business income or loss, and claiming half of the self employment taxes as an adjustment to income in the amount of \$1,396.71.
- The client and his wife (who is also in the food stamp household) are the only people on the title of the corporation, they determine their own salary, and the corporation is making money.

ANSWER:

The client, in this situation owns a business that has been incorporated, and as a result, the person receives a salary and is an employee of the incorporated business rather than being self-employed. The salary the client is receiving is earned income per MPP 63-502.131.

The corporation would be considered a liquid resource to the household, per MPP 63-501.11, because the husband and wife are the only two on the title and could sell the corporation themselves to pay expenses. As a result, if their income does not put them over the income limit, and their resources (including the corporation) are equal to or less than \$2,000, the household would be eligible for food stamp benefits. The value of the business would be subject to a resource determination evaluation for food stamp eligibility purposes.

STUDENT ELIGIBILITY – STUDENT INELIGIBLE AT ENROLLMENT OR FIRST DAY OF SCHOOL, CHILD EXEMPTION

QUESTION #16:

Should the recipient be determined ineligible based on when they enrolled/registered or when the school term begins? Is enrollment the same as being registered?

ANSWER:

A recipient is eligible when he/she enrolls or registers. There is no difference between being enrolled or registered in higher education. MPP 63-406.1 provides that a student enrolled at least half time is ineligible to participate in the Food Stamp Program, unless the student meets at least one of the criteria in MPP 63-406.2.

QUESTION #17:

A household consists of a father attending college full-time, a mother who is unemployed, and two children under six for whom the mother provides the majority of care. Can the father be considered an eligible student based on exerting parental control of a HH member under age six per MPP Section 63-406.213? If so, can he also qualify for the work registration exemption based on half-time school attendance at MPP Section 63-407.21(h)?

ANSWER:

No. The father is not an eligible student based on assertion of parental authority. This criterion is only met if the student provides the majority of child care for children in the household under age 6. In this situation, the mother provides the majority of care. The father cannot claim the work registration exemption based on half-time school attendance unless he meets one of the other student eligibility criteria at MPP Section 63-406.21. This policy supercedes that contained in ACIN I-43-03 dated July 28, 2003.