

MPP. DEPARTMENT OF SOCIAL SERVICES  
NOTICE OF PROPOSED CHANGES IN REGULATIONS

ITEM # 2      Noncitizen Eligibility Certification Provision Amendments      ORD #0102-02

The California Department of Social Services (CDSS) hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held May 23, 2002, as follows:

May 23, 2002  
Office Building # 9  
744 P St. Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by telefax to the address/number listed below. All comments must be received by 5:00 p.m. on May 23, 2002.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT:

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## CHAPTERS

Manual of Policies and Procedures, Division 63 (Food Stamp Program), Chapter 63-100 (General Provisions), Section 63-102 (Definitions) and Section 63-103 (Definitions-Forms); Chapter 63-300 (Application Process), Section 63-300 (Application Process) and Section 63-301 (Application Processing Time Standards); and Chapter 63-500 (Eligibility Determinations), Section 63-503 (Determining Household Eligibility and Benefit Levels)

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On November 21, 2000, the United States Department of Agriculture issued a final rule amending Food Stamp Program regulations to implement several provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and subsequent amendments to those provisions made by Public Laws 104-208, 105-33, and 105-185. These regulations are also known as the Noncitizen Eligibility and Certification Provisions, Federal Register, Vol. 65, No. 225, November 21, 2000 (65 Federal Register 70134). Those rules became effective on January 20, 2001 and have been issued on an emergency basis effective June 1, 2001. However, included within the final federal rules were specific provisions that were subject to Office of Management and Budgets (OMB) approval before they could be implemented. OMB approval is provided in Federal Register, Vol. 66, No. 229 of November 28, 2001. The approved rules are required to be implemented no later than March 10, 2002. For CWD administrative ease of implementation, the Department has opted to implement on March 1, 2002 for all new applications; for ongoing cases implementation must take place no later than by the next recertification.

The regulation changes are beneficial to applicants and recipients of the Food Stamp Program. They include less restrictive application procedures for scheduling application interviews, and they mandate that an application cannot be denied prior to the 30<sup>th</sup> day of application. The regulations discuss the procedure for scheduling the initial application interview and the procedures the CWD must follow to allow for a second interview. If the applicant misses its first interview scheduled by the CWD, it is the household's responsibility to reschedule a second interview. When the first scheduled interview is missed, the CWD is required to send a Notice of Missed Interview informing the applicant that the interview was missed, that the applicant is responsible for rescheduling and the consequences of failure to reschedule within 30 days of the application date. If the household reschedules the interview within the 30 days of application, the application is not denied. If the household does not reschedule the interview within the 30-day processing time frame, the CWD can then issue a denial notice to be sent on the 30<sup>th</sup> day following the application date. This ensures that the CWD holds the food stamp application open throughout the application processing time frame of 30 days.

Another procedure that is required during the 12-month certification period is the use of a request for information (RFI). If during the certification period, the CWD receives any information that is unclear or that could compromise the household's eligibility, the CWD must first issue an RFI to the recipient and allow at least 10 days for the recipient to respond to the request. This procedure is important because it mandates that the CWD contact the household through a general notice request and allow the household 10 days to respond prior to the CWD being allowed to send a termination notice. This is beneficial to the recipient because it provides time for the recipient to avoid any adverse actions.

There is also a new requirement for determining whether a sponsored noncitizen is considered

indigent. That is, a determination must be made by the CWD on whether the noncitizen's income, including income given to the sponsored noncitizen by the sponsor, exceeds 130 percent of the poverty guideline for the household size. This regulation clearly specifies that if the income is below 130 percent of the poverty level, the sponsored noncitizen is considered indigent. That is, without adequate income to obtain food and shelter. When the sponsored noncitizen is found to be indigent, only the actual income the sponsored noncitizen receives is used to compute their food stamp benefits. When the sponsored noncitizen's income is above 130 percent of the poverty guideline, then the sponsor's income must be deemed to the sponsored noncitizen. This requirement for the CWD to first determine if the sponsored noncitizen is indigent provides the noncitizen with adequate means to obtain food and shelter.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: No additional costs or savings because this regulation makes only technical, nonsubstantive or clarifying changes to current law and regulations.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: No additional costs or savings because this regulation makes only technical, nonsubstantive or clarifying changes to current law and regulations.
4. Federal Funding to State Agencies: No additional costs or savings because this regulation makes only technical, nonsubstantive or clarifying changes to current law and regulations.

#### LOCAL MANDATE STATEMENT

These regulations impose a mandate upon county welfare departments but not on school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because these regulations implement the Federal mandate contained in 7 CFR Sections 273.2, 273.4 and 273.12, and Federal Register, Vol. 66, No. 229, November 28, 2001.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

#### ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

#### STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Sections 10553 and 10554, Welfare and Institutions Code. Subject regulations implement and make specific 7 CFR 273.2(e), (e)(1), (e)(3), and (f); 7 CFR 273.4(c)(3)(iv); 7 CFR 273.12(c)(3)(i), (ii) and (iii); and Federal Register, Volume 66, No. 229, dated November 28, 2001.

#### CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Anthony J. Velasquez (916) 657-2586  
Backup: Robin Garvey (916) 657-2586

#### CDSS REPRESENTATIVE REGARDING SUBSTANCE OF THE PROPOSED REGULATION

Program Contact: LeAnne Torres 654-2135  
Backup: Mike Papin 654-1880

#### EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.

AGENDA ITEM(S) FOR THIS PUBLIC HEARING - May 23, 2002

ITEM #1      ORD #0701-14      Release of CalWORKs and Food Stamp Information to Law Enforcement

ITEM #2      ORD #0102-02      Noncitizen Eligibility Certification Provision Amendments