

## SHD Paraphrased Regulations - CalFresh

### 270 Deductions

#### 270-1

As of October 1, 201\_\_, deductions from gross income to provide an adjusted net income for CalFresh purposes include:

- (1) 20% of gross earned income.
- (2) A standard deduction which is \_\_\_\_\_ for \_\_\_\_ persons.
- (3) A shelter cost deduction up to a specified maximum (which is \$\_\_\_\_).
- (4) A dependent care deduction.

§63-503.311; ACIN I-\_\_-\_\_, August \_\_, 20\_\_)

#### 270-2

There are limited income exclusions and deductions in the CalFresh Program. There is no exclusion or deduction for \_\_\_\_\_. (§§63-502.2 and 63-502.3)

#### 270-3 ADDED

9/13

For medical and child care expense deductions and legally-obligated child support income exclusions, the CWD will determine what the household reasonably anticipates over the SAR Payment Period. Medical expenses are currently averaged over the certification period, over the remaining months of the certification period, over the billing period, or allowed as a one-time deduction. Under SAR rules, a medical, child support, or child care expense must be determined for the SAR Payment Period (contingent upon federal waiver approval).

If the expense is reported mid-period, the expense will be determined for the current and remaining months in the current SAR Payment Period. As with income, the CWD must carefully document the rationale for how it determined what expenses are reasonably anticipated for the CalFresh household.

(All County Letter 12-25, May 17, 2012)

#### 270-3A ADDED

9/13

Shelter costs will be determined at application and recertification and shall remain fixed at the determined amount unless the household reports a change. CalFresh households are required to report mid-period changes of address, but the accompanying shelter cost changes are considered voluntary and only used if they result in an increase in benefits.

(All County Letter 12-25, May 17, 2012)

#### 270-3B ADDED

9/13

Some recipients may have expenses, such as child care or medical expenses that vary from month to month. Households may elect to have:

- Fluctuating expenses averaged over the semi-annual period;

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- Expenses which are billed less often than monthly averaged over the interval between scheduled billings;
- Expenses averaged over the period the expense is intended to cover, if there is no scheduled interval; or
- Expenses averaged over the remaining months of the certification period. Households reporting a one-time only medical expense during the semi-annual period may elect to have a one-time deduction or to have the expense averaged over the remaining months of their SAR Payment Period.

(All County Letter 12-25, May 17, 2012)

#### 270-3D

Under prospective budgeting, medical, child care and court-ordered child support expenses shall be determined as follows:

Determine the expense amount that is reasonably anticipated in each month of the quarter.

Average the reasonably anticipated amounts over the months of the quarter and use this amount as the expense deduction when computing benefits.

Expenses paid weekly shall be multiplied by 4.33 and received bi-weekly by 2.167 to determine monthly expenses.

Document the rationale for the determination of anticipated expense deductions.

(§63-509(a)(3)(A))

#### 270-5

☐The standard deduction for one to three persons is \_\_\_\_ effective \_\_\_\_\_. The standard deduction for four persons is \_\_\_\_ effective \_\_\_\_; the standard deduction for five persons is \_\_\_\_ effective \_\_\_\_\_ and the standard deduction for six or more persons is \_\_\_\_ effective \_\_\_\_\_ (ACIN I-\_\_\_\_\_)

#### 271-2

Monthly shelter costs include continuing costs for the shelter occupied by the household, including rent, mortgage, or other continuing costs leading to the ownership of the shelter. Property taxes, state and local assessments, and insurance on the structure itself are allowed, but there is no allowance for separate costs for insuring furniture or personal belongings. Shelter costs also include the cost of heating and cooking fuel, cooling and electricity, water and sewerage, garbage and trash collection fees, the basic service and rental fee for one telephone, including tax on the basic fee, and fees charged by the utility provider for initial installation of the utility. One-time deposits shall not be included as shelter costs. Shelter costs shall also include the costs for the home if temporarily not occupied by the household due to employment, illness or damage to the home. Charges for the repair of a home which was substantially damaged by a natural disaster are also allowed. (§63-502.362)

271-3

The shelter cost deduction is allowed only when the total shelter costs exceed one-half of all other net income. In that case, the deduction is the difference between the shelter costs and one-half of the income, up to the applicable maximum deduction. (§63-502.36, formerly §63-502.35)

271-4

The rental fee for a propane tank, and the cost of the gas for the tank, are allowable shelter costs for CalFresh purposes. (All-County Information Notice (ACIN) No. I-49-95, October 24, 1995, clarifying §63-502.353(a)(1), renumbered to §63-502.362(d))

271-5

Effective November 1, 2006, entitlement to the SUA, LUA or telephone allowance shall be determined at application and at recertification and shall remain in effect during the certification period. (§63-509(a)(3)(C) effective November 1, 2006)

Prior to November 1, 2006, utility costs determined at application and recertification shall remain fixed during the certification period with the exception of households that choose the standard utility allowance (SUA). Households that have elected the SUA may switch to actual utility expenses if it can verify the costs. (§§63-509(a)(3)(B) and (C) prior to November 1, 2006)

271-6

**TREATMENT OF INCOME – SHELTER DEDUCTIONS**

**SCENARIO:**

An approved CalFresh household has a shelter and utility expense which totals \$500.00. The household reports an increase in their shelter and utility expense of \$2000.00 which appears to be questionable. The County Welfare Department contacts the household requesting verification of the increase in shelter. The household fails to provide the verification.

**QUESTION:**

Since the household has failed to provide verification, do we

- Not increase the shelter and utilities and continue to allow the \$500,
- Zero out the shelter and utilities, or
- Terminate the case for failure to provide verification.

**ANSWER:**

Per ACL 84-34 and ACIN I-62-89 regarding the Saldivar vs McMahan court case, each county has two options to choose from for income deductions when the household fails to provide verifications(s). Option #1 does not allow any unverified deduction(s). In this case, the allotment amount is to be computed using previously verified deduction amounts.

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Option #2 disallows any unverified deductions(s) if the requested verification/information is not received before the extended filing date per MPP 63-504.34 which states "...If the household fails to provide the missing verification/information, other than for income, by the extended filing date, the CWD shall not consider the CA 7 incomplete. Any deductions for which the verification/information is missing shall be disallowed..."

In such cases, the unverified deduction is "zeroed out" and no deduction is allowed. Whatever option the county elects, the elected procedure must be countywide.

(All County Information Notice I-52-06, July 21, 2006, page 4)

#### 271-7

The maximum limitation on the amount of the shelter cost deduction is not applicable to CalFresh households which contain an elderly or disabled member as defined in §63-102e. (§63-502.35)

#### 271-8

Effective October 1, 2\_\_\_\_, the maximum shelter allowance was \_\_\_\_\_(ACIN I-\_\_\_\_\_)

#### 272-1

☑A Standard Utility Allowance (SUA) is used in calculating shelter costs of those households which incur heating or cooling costs separate and apart from their rent or mortgage payments. When the SUA is used, the household is not required to document the amount of the actual utility costs once the existence of the cost is established.

(§63-502.363, ACIN I-61-08)

#### 272-1A

Effective October 1, 2\_\_\_\_\_, the SUA is \_\_\_\_\_.

(All County Information Notice I-\_\_\_\_\_)

#### 272-1B

Effective October 1, 2\_\_\_\_\_, the LUA is \_\_\_\_\_.

Effective October 1, 2\_\_\_\_\_, the TUA is \_\_\_\_\_.

(All County Information Notice I-\_\_\_\_\_)

#### 272-1C

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Effective November 1, 2006, the SUA is mandatory for all households which incur heating or cooling costs separate and apart from their rent or mortgage payments. This includes residents of rental housing who are billed on a monthly basis by their landlords for actual usage as determined through individual metering.

(§63-502-363(a)(1) effective November 1, 2006)

#### 272-1D ADDED 10/14

Effective January 1, 2013, as part of the Heat and Eat Program for CalFresh, all CalFresh recipients will be entitled to the SUA as part of their CalFresh budget computation as a result of receiving a nominal \$.10 Low Income Home Energy Assistance (LIHEAP) benefit. (All County Letter 12-61, October 30, 2012)

#### 272-1E ADDED 10/14

Effective July 1, 2014, the State Utility Assistance Subsidy (SUAS) payment of \$20.01 replaces the LIHEAP benefit as the Heat and Eat Program. Households that do not currently qualify for, or receive, a SUA will receive the SUAS so that the SUA can be applied to determine eligibility for or to increase CalFresh benefits.

The SUAS payment (\$20.01) is only to be provided to those households who will actually receive additional CalFresh benefits or become eligible for CalFresh as a result of receiving the payment. These are households who:

- Are otherwise not eligible for the SUA,
- Are not already receiving the maximum CalFresh allotment for their household size, or
- Are not already receiving the maximum shelter deduction (for those households which contain no elderly or disabled members).

(All County Letter 14-66, September 19, 2014)

#### 272-2

Effective October 1, 2006, a household that is not eligible for the SUA, but incurs expenses for at least two separate types of utilities (other than heating and cooling) is eligible for a Limited Utility Allowance (LUA). Allowable utilities include telephone, water, sewerage, and garbage or trash collection. The LUA will be adjusted annually. (§63-502.363(d) effective October 1, 2006)

The implementation date for the LUA was extended to November 1, 2006. (ACIN I-69-06, September 12, 2006)

#### 272-3

Effective October 1, 2006, a household that is not eligible for either the SUA or LUA, but incurs telephone costs only, is entitled to a telephone allowance of \$20. It shall be used only in instances where the household has a telephone, or in its absence, an equivalent form of communication. (§63-502.363(e) effective October 1, 2006)

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The implementation date for the telephone utility allowance (TUA) was extended to November 1, 2006. (ACIN I-69-06, September 12, 2006)

#### 272-3B

Q. If the telephone or cell phone is not in the client's name, are they still eligible to the TUA?

A. Yes, provided the household incurs a cost. Examples of incurring a cost include, but are not limited to: a household pays \$10 a month to use the neighbor's home phone when needed, pre-paid phone cards, e-mail through the internet, or phone line for a fax machine, etc.

(All County Information Notice I-96-06, December 26, 2006, question and answer 8)

#### 272-4

Q. If there are no heating or cooling costs, does the CWD need to determine whether more than one utility is being paid in order to allow the LUA?

A. Yes. Per MPP Section 63-502.363(d), a household that is not eligible for the SUA, but incurs expenses for at least two separate allowable types of utilities (other than heating or cooling) is eligible for a LUA. If the household incurs costs for any two expenses of which telephone, water, sewage and garbage or trash collection are a part, the household is eligible for the LUA.

(All County Information Notice I-96-06, December 26, 2006, question and answer 7)

#### 273-6 ADDED 10/14

Homeless households adversely impacted by receiving the SUA due to receipt of the Low Income Home Energy Assistance (LIHEAP) benefit rather than the homeless shelter deduction should have their benefits recalculated using the correct deduction retroactively to January 1, 2013, the implementation date for the Heat and Eat Program. (All County Letter 13-35, April 24, 2013)

#### 273-6A ADDED

1/15

CWDs must determine which deduction should be used in the CalFresh budget calculation for the homeless household so as to not adversely affect the household's benefits. For example, if the allotment of a household eligible for the homeless shelter deduction is reduced due to utilizing the SUA in the CalFresh budget calculation, the CWD shall continue to use the homeless shelter deduction rather than the SUA. Regardless of which deduction is used, the household will still receive the LIHEAP payment. (ACL No. 13-35, April 24, 2013)

#### 273-7

All homeless households which incur, or reasonably expect to incur, shelter costs during a month shall be eligible to use the homeless standard shelter deduction without providing verification of shelter costs. Homeless households which do not incur shelter costs, or receive free shelter for the entire calendar month, are not eligible for the homeless shelter deduction. If the allowance is used, separate utility costs may not be claimed, nor may the SUA be used.

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(§§63-502.351-.354; 63-502.363(a)(1))

The homeless standard shelter allowance shall be adjusted annually on October 1. (Handbook §63-1101.27) As of October 1, 2005, the homeless standard shelter allowance was \$143. (ACIN I-46-05)

#### 273-7A

If actual verified homeless shelter costs are higher than the homeless shelter deduction, the household may use the actual cost, and utility costs may also be claimed. (§63-502.362(a))

#### 273-7B

If the CalFresh household has its \$143 homeless shelter allowance deducted from its income in accord with §63-503.311(f), it is not entitled to an excess shelter deduction under §63-503.311. (§63-502.352, as revised effective June 1, 2001; 7 Code of Federal Regulations §273.9(d)(6)(i))

#### 274-1

Vendor payments for child care made by the CalWORKs program or by the California Department of Education are not considered income to the household and cannot be used as a child care deduction.

An expense which is covered (i.e., either already paid and reimbursed, or anticipated to be reimbursed) by an excludable reimbursement payment or vendor payment (§63-502.2(b)(2)) is not a deductible expense. However, if the child care payment is not reimbursed, or reimbursed only in part, the out-of-pocket expense is deductible per §§63-502.34 and 63-1101.2, up to the allowable maximum. Counties must recalculate the CalFresh allotment and issue any applicable benefit supplement in the current month, or restore lost benefits.

(All-County Letter No. 98-19, March 17, 1998)

#### 274-1A

The cap on the deduction for dependent care expenses (currently \$175 or \$200 per month, depending on the age of the dependent) is eliminated and effective October 1, 2008 families eligible for the deduction are allowed to deduct the entire amount of dependent care expenses when benefit levels are calculated. (ACL 08-37, August 1, 2008)

#### 275-1

Excess medical costs excluding the costs of a special diet are allowable as a deduction if they exceed the amount specified in §63-1101. The amount specified in §63-1101.25 is \$35. The deduction is only available if the expense is incurred by a household member who is elderly or disabled as defined in §63-102e (now (e)). Allowable medical expense items include medical or dental care, hospitalization, prescription drugs and medical supplies, insurance premiums, Medicare premiums or Medi-Cal shares of cost, seeing eye or hearing dog costs, eye glass or contact lens costs, transportation expenses and the cost of maintaining an attendant. (§63-502.33)

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#### 275-2

At certification and recertification, households (HHs) with elderly or disabled members will be required to report and provide verification of all medical expenses. The HH's monthly medical deduction shall be based on the information reported and verified by the HH. (§63-503.253(a))

Medical expenses averaged over the certification period shall not be automatically based on past months' medical expenses. Those past expenses shall be used only as an indicator of estimated or reasonably anticipated expenses during the certification period. Fluctuating medical expenses (such as services and treatments received regularly, but less often than monthly, and fluctuating costs of prescription drugs) may be allowed as a deduction and averaged only if regularly recurring, reasonably anticipated, and verified to recur over the certification period. (§63-503.252(b))

#### 275-3

Change reporting households (HHs) which voluntarily report a medical expense change shall have their CalFresh allotments changed as follows:

1. If the change is \$25 or less, the county shall increase or decrease the CalFresh allotment, as appropriate.
2. If the reported change is more than \$25 and would result in an increase in benefits, the county must verify the claimed expense before increasing the allotment. If the reported change is \$25 or more and would result in a decrease or ineligibility for the HH, the county shall act on the change without requiring verification.

(§§63-503.253(a) and 63-504.421; 7 Code of Federal Regulations §273.10(d)(4))

#### 275-4

The actual cost of transportation is an allowable medical cost provided that it is less than the actual cost of the least expensive mode of transportation reasonably available to the recipient. When a more costly means of transportation, such as a taxi or private auto is the only means available, the actual costs of such transportation shall be allowed. (§63-502.331(h))

#### 275-5 ADDED

11/15

Under the Controlled Substances Act, 21 U.S.C. 801 et seq., marijuana is a Schedule I controlled substance that has no currently accepted medical use and cannot be prescribed for medicinal purposes. 21 U.S.C. 812(b)(1)(C). SNAP is a Federal program and must conform to Federal law regarding illegal substances. Therefore, marijuana and other Schedule I controlled substances are not allowable medical expenses under SNAP. USDA is incorporating this requirement into the regulations at new subsection Under the Controlled Substances Act, 21 U.S.C. 801 et seq., marijuana is a Schedule I controlled substance that has no currently accepted medical use and cannot be prescribed for medicinal purposes. 21 U.S.C. 812(b)(1)(C). SNAP is a Federal program and must conform to Federal law regarding illegal substances. Therefore, marijuana and other Schedule I controlled substances are not allowable medical expenses under SNAP. USDA is incorporating this requirement into the regulations at new



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subsection 7 CFR 273.9(d)(3)(iii)(B).

(See Federal Register, September 3, 2015)

#### 276-1

Effective October 1, 1995, there is a child support deduction when household members pay legally obligated child support to or for a nonhousehold member. (All-County Letter No. 95-49, August 31, 1995, referencing §63-503.312)

Legally obligated child support payments to a non-household member are treated as income exclusions rather than deductions (§63-502.2(p) effective November 1, 2006)

Effective November 1, 2007, the child support disregard is no longer considered an income exclusion (ACIN I-48-07, September 27, 2007)

#### 276-2

Prior to November 1, 2006, there was a child support deduction in the CalFresh program for those individuals who make verified child support payments to or for individuals living outside the HH. These child support payments include legally obligated payments for health insurance. The payments are deductible only to the extent that they represent a child support obligation that has been ordered by a court or administrative authority. (§63-502.38 repealed effective November 1, 2006) Child support payments for arrearages are a deductible expense. (§63-502.386 repealed effective November 1, 2006)

Legally obligated child support payments to a non-household member are now treated as income exclusions rather than deductions (§63-502.2(p) effective November 1, 2006)

#### 277-1

☐ If a household shares deductible expenses with the nonhousehold member, only the amount actually paid or contributed by the household shall be deducted as a household expense. If the payments or contributions cannot be differentiated, the expenses shall be prorated evenly among the persons actually paying or contributing to the expense and only the household's pro rata share deducted. (§63-503.452)

#### 277-2

### ☐ BUDGETING – SHELTER DEDUCTION

#### SCENARIO:

There is a mom and 2 undocumented non-citizen children, 1 citizen child (receiving CalWorks and CalFresh benefits) and mom's boyfriend, also an undocumented non-citizen. The boyfriend is employed. Everyone purchases and prepares together. There is a sworn statement on file that the boyfriend pays half of the rent and the rest is paid with the CalWorks grant.

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#### QUESTION:

Should the shelter cost be determined based on MPP 63-503.442 (c) (3) which states that the known portion of the shelter cost paid by an excluded household member is deducted from the total expense and the remainder is allowed as a deduction for the CalFresh household?

#### ANSWER:

Yes. According to MPP 63-503.442 (c) (3), since we have a definite amount contributed by the excluded person, deduct the known amount from the total cost, and allow the remainder as a deduction for the CalFresh household (All County Information Notice I-52-06, July 21, 2006, page 5)

277-3

Effective October 1, 2002, the CDSS issued instructions requiring counties "... not to prorate the SUA if a person(s) who shares heating or cooling expenses with the CalFresh household are excluded because they are ineligible, and the household is eligible and elects the SUA. The full SUA is allowed. ...However, if the CalFresh household was sharing utility expenses with another household(s), which may or may not be participating in the FSP, the CWD would prorate the SUA (if the CalFresh household elects the SUA and then would allow the CalFresh household's share in the CalFresh budget." (All-County Letter No. 02-55, July 22, 2002, p. 2, to be implemented for new or prospectively budgeted CalFresh household October 1, 2002, and for other households effective December 1, 2002)

When the household lives with and shares utility expenses with an excluded/ineligible household member(s), the county shall not prorate the SUA. (§§63-502.371, .375(c))