

## SHD Paraphrased Regulations - CalFresh

### 250 Resources

#### 251-1 REVISED

10/14 Effective July 1, 2009, counties conferred Modified Categorical Eligibility (MCE) to existing Non Assistance CalFresh households – and at the latest by January 1, 2010, new applicant households – with members under the age of 18 that exceeded the CalFresh resource limit, but were otherwise eligible for CalFresh. Counties conferred MCE onto households by providing the TANF/MOE-funded “Family Planning – PUB 275” Brochure. (ACL 09-14, May 27, 2009)

Effective February 1, 2011, all other Non Assistance CalFresh households – including elderly/disabled households – that were ineligible to CalFresh due to resources were conferred MCE based on the counties’ responsibility to provide the PUB 275 or inform these households of where the PUB 275 is available online. (ACL 11-11, January 27, 2011)

Further clarified in April 2013 was that CalFresh households without children – including households with a disabled or elderly household member – would not be conferred MCE if the household income is in excess of 200 percent of the Federal Poverty Level. Thus only aged/disabled household with income over 200% are subject to the resource limit. (ACL 13-32, April 24, 2013)

Effective July 1, 2014, all households with gross income at or below 200 percent of the FPL, must be conferred MCE status if they are issued or have online access to the TANF-funded “Family Planning – PUB 275” brochure and meet all other conditions of eligibility for CalFresh. (ACL 14-56, August 22, 2014)

#### 251-1A REVISED 10/14

Effective May 1, 1986, the maximum resource limit for a CalFresh household shall be \$2,000. If the household includes one member that is aged 60 or older or disabled, the resource limit is \$3,000. (MPP Handbook §63-1101.1)

Effective October 1, 2011, the resource limit for households with an elderly or disabled member increased from \$3,000 to \$3,250. (ACIN I-62-11E, November 18, 2011)

Effective October 1, 2014, the maximum allowable resource limit for households will increase from \$2,000 to \$2,250. The resource limit for households if at least one person is age 60 or older, or is disabled, will remain unchanged at \$3,250. (ACIN I-56-14, September 11, 2014)

Households (which are not categorically eligible or Modified Categorical Eligible households) with resources in excess of these amounts are ineligible to participate in the CalFresh Program. (§63-409.12)

#### 251-1B ADDED 8/04

Under MR/RB, excess resources shall not be counted if they are reduced to the resource limit in the month received. (§§63-504.351(b) and 63-504.372(a) prior to the implementation of QR/PB in the county)

#### 252-1 REVISED 9/06

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The home and surrounding property is excluded as a resource. The home and surrounding property shall remain exempt when temporarily unoccupied for reasons of employment, training for future employment, illness, or uninhabitability caused by casualty or natural disaster, if the household intends to return. Households that currently do not own a home, but own a lot on which they intend to build, shall receive an exclusion for the value of the lot and, if it is partially completed, for the home. (§63-501.3(a))

#### 252-2

Household goods, personal effects, one burial plot per household member, the cash value of life insurance policies and pension plans and certain Keogh plans are excluded as resources. (§63-501.3(b))

#### 252-2A ADDED 3/07

##### **QUESTION:**

Are Individual Retirement Accounts (IRAs) and 401(k) plans considered resources?

##### **ANSWER:**

Per MPP 63-501.11, funds held in IRAs and funds held in accessible Keogh plans that involve no contractual obligation with anyone who is not a household member are considered resources. Simplified Employer Pension Plans (SEPs), which are considered IRAs by banks and the IRS, are also counted as resources, per Federal Administrative Notice (AN) 02-26. In counting any of these plans as a resource, the CWD shall include the total cash value of the account or plan minus the amount of the penalty (if any) that would be exacted for the early withdrawal of the entire amount in the account or plan, per MPP 63-501.113.

Per MPP 63-501.3(b), the cash value of pension plans or funds are excluded as resources. The following types of retirement savings and pension plans are excluded from consideration as resources: 401(k) plans, 457 plans (plans for state and local governments and other tax-exempt organizations), Federal Employee Thrift plans, Section 403(b) plans (tax-sheltered annuities provided for employees of tax-exempt organizations and state and local educational organizations), Section 501(c)(18) plans (retirement plans for union members consisting of employee contributions to certain trusts that must have been established before June 1959) and Keogh plans that involve a contractual obligation with someone who is not a household member.

(All County Information Notice I-91-06, December 5, 2006)

#### 252-2B ADDED 9/08

Effective October 1, 2008, pursuant to the Food Conservation and Energy Act of 2008, all tax-preferred education accounts (e.g., 529s) and retirement accounts (e.g., IRAs), are excluded from countable resources in determining eligibility. Also excluded are any funds in a plan, contract, or account, described in sections 401(a), 403(a), 403(b), 408, 408(a), 457(b), and 501(c)(18) of the Internal Revenue Code of 1986 and the value of funds in a federal thrift

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Savings Plan account as provided by 5 U.S.C. 8439. The Food Conservation and Energy Act of 2008 also provides for the exclusion of any successor retirement accounts that are exempt from federal taxes.

(All County Letter 08-37, August 1, 2008)

#### 252-3 REVISED 9/06

Property which produces annual income consistent with its fair market value is exempt, even if used only on a seasonal basis. Such property shall include rental and vacation homes. (§63-501.3(e))

#### 252-3A ADDED 3/07

##### **QUESTION:**

Does an income producing property need to generate income consistent with the total value of the home, the value after encumbrance, or consistent with what other properties in the area receive for rent?

##### **ANSWER:**

The property must generate income consistent with the other properties in the area. MPP 63-501.3(e), under the Handbook Section, states "To determine if property is producing income consistent with its fair market value, the County Welfare Department (CWD) may contact local realtors, local tax assessors, the Small Business Administration, Farmer's Home Administration, or other similar sources. Newspaper classified advertisements can also be used as a resource. All findings/determinations should be documented in the case file."

##### **QUESTION:**

How does the CWD determine whether property annually produces income consistent with its FMV in accordance with MPP 63-501.3(e)?

##### **ANSWER:**

MPP 63-501.3 (e) states "Property which annually produces income consistent with its fair market value, even if only used on a seasonal basis is excluded as a resource." It also states "Such property shall include rental homes and vacation homes." The CWD determines whether or not a property annually produces income consistent with the FMV by assessing if the rental amount is the same as comparable homes in the area by using the following: newspaper classified advertisements, local realtors, local tax assessors, the Small Business Administration, the Farmer's Home Administration, property management companies or similar resources.

(All County Information Notice I-91-06, December 5, 2006)

#### 252-4

Resources whose cash value is not accessible to the household are to be excluded in the evaluation of resource eligibility. (§63-501.3(i), as renumbered effective June 1, 2001)

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#### 252-4A REVISED 9/06

"Inaccessible resource" means the resource or vehicle would be exempt from consideration if its equity value is \$1500 or less. (7 Code of Federal Regulations (CFR) §273.8(e)(18); 63-102(i)(4))

#### 252-4B

Property which is essential to the employment or self-employment of a household member is exempt in the CalFresh program. (§63-501.3(f), effective June 1, 2001)

#### 252-4C

Prior to February 21, 2002, state regulations provided that services which have a cash value that is not accessible to the household shall be excluded. This includes property "other than financial instruments (stocks, bonds, legally binding promissory notes, etc.) or vehicles, which if sold or otherwise disposed would be likely to produce less than \$1500. [Emphasis added] (§63-501.3(i)(5), effective June 1, 2001)

It should be noted that this regulation makes resources (not including vehicles or financial instruments) exempt when the sale of the resources would produce more than \$1500. This is inconsistent with federal regulations, so any eligibility conferred under this section would be state-only CalFresh benefits. (See, e.g., 7 Code of Federal Regulations §273.8(e)(18))

The CDSS has instructed counties to interpret "produce less than \$1500" as "produce more than \$1500" [presumably in light of the difference between federal and state regulations]. (See All-County Information Notice (ACIN) No. I-49-01, June 19, 2001) The CDSS implemented this ACIN policy by amending its regulations. (See §63-501.3(i)(5), as amended effective February 21, 2002)

#### 252-5 REVISED 9/06

Resources whose cash value is not accessible to the household such as irrevocable trust funds are to be excluded as resources. Funds in a trust or (effective January 1, 1996) funds transferred to a trust, and the income produced by that trust, shall be considered inaccessible to the household if the following conditions are met:

(A) The trustee administering the funds is either:

1. A court, or an institution, corporation or organization which is not under the direction or ownership of any household member(s); or
2. An individual appointed by the court who has court imposed limitations placed on his/her use of the funds which meet the requirements of this section.

(B) The funds held in irrevocable trust are either:

1. Established from the household's own funds if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the household creating the trust; or

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2. Established from nonhousehold funds by a nonhousehold member regardless of how these funds will be used.
- (C) The trust investments do not directly involve or assist any business or corporation under the control, direction or influence of a household member;
- (D) The trust arrangement is not likely to cease during the certification period; and
- (E) No household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period.

(§63-501.3(i)(1), effective June 1, 2001)

#### 252-5A REVISED 9/06

Resources whose cash value is not accessible to the household are exempt. Such resources include: Security deposits on rental property or utilities; property in probate; and real property which the household is making a good faith effort to sell at a reasonable price but which has not been sold. (§§63-501.3(i)(2) - (4), as renumbered effective June 1, 2001)

#### 252-5C

Federal CalFresh regulations provide that certain assets are excluded from consideration as resources. Among these exclusions are resources whose sale would not produce a significant return, or the costs of selling the household's interests are relatively great. Specifically, the regulations provide as follows:

"The State agency must develop clear and uniform standards for identifying kinds of resources that, as a practical matter, the household is unable to sell for any significant return because the household's interest is relatively slight or the costs of selling the household's interest would be relatively great. The State agency must so identify a resource if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household or the cost of selling the resource would be relatively great. This provision does not apply to financial instruments such as stocks, bonds, and negotiable financial instruments. The determination of whether any part of the value of a vehicle is included as a resource must be made in accordance with the provisions of paragraphs (e)(3) and (f) of this section. The State agency may require verification of the value of a resource to be excluded if the information provided by the household is questionable. The State agencies must use the following definitions in developing these standards:

"(i) 'Significant return' means any return, after estimating costs of sale or disposition, and taking into account the ownership interest of the household, that the State agency determines are more than \$1,500; and

"(ii) 'Any significant amount of funds' means funds amounting to more than \$1,500."

(7 Code of Federal Regulations §273.8(e)(18), as modified effective January 20, 2001, and to be implemented by June 1, 2001)

#### 252-5D REVISED 9/06

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Federal CalFresh regulations provide for evaluating unlicensed vehicles based solely on their equity value. (7 Code of Federal Regulations (CFR) §273.8(c)(2)).

Unlicensed vehicles are among those resources which are counted as resources only to the extent that they accessible to the household when the unlicensed vehicle is jointly owned. (7 CFR §273.8(d)) Unlicensed vehicles are included among those resources which are excluded from resource consideration when the unlicensed vehicle is in probate, or when the household is making a good faith effort to sell the vehicle at a reasonable price, and the vehicle has not been sold. (7 CFR §273.8(e)(8))

For CalFresh, all vehicles are excluded as a resource effective January 1, 2004. (§63-501.3(c))

#### 252-5F REVISED 5/05

Prior to January 1, 2004, licensed vehicles are excluded as resources when jointly owned by a household member and a non-household member not living with the household if the household member does not have possession of, or use of, the vehicle, and is unable to sell it. The household member may be unable to sell the vehicle if the co-owner's signature is necessary and the co-owner refuses to sign. (All-County Information Notice (ACIN) I-46-96, September 5, 1996, interpreting §63-501.21)

Licensed vehicles are excluded as a resource when the household is legally prohibited from selling the vehicle, e.g., when the vehicle is in probate. (ACIN I-46-96, interpreting §63-501.3(h), renumbered to §63-501.3(i)(3), effective June 1, 2001)

For CalFresh, all vehicles are excluded as a resource effective January 1, 2004. (§63-501.3(c))

#### 252-5G REVISED 5/05

The CDSS implemented CalFresh vehicle valuation amended regulations effective June 1, 2001. The CDSS issued several answers to vehicle valuation questions in an All-County Information Notice (ACIN). Some of those answers are set forth below:

- > Once a vehicle is evaluated, it does not need to be reevaluated until recertification/redetermination.
- > To be considered licensed, a vehicle must be registered to be operated on public roads. A vehicle registered as "nonoperative" is evaluated as an unlicensed vehicle per §63-501.53. Even if a person has paid all registration fees on the vehicle, the vehicle may be considered to be unlicensed if the Department of Motor Vehicles (DMV) is withholding vehicle registration, such as when the owner has unpaid parking tickets or has not obtained a smog certificate.
- > A leased vehicle, or one that has a lease/purchase option, is not considered a resource. An unlicensed vehicle that is being used as a home is excluded as a resource.
- > If a vehicle is jointly owned by an eligible household member and an excluded household member, then the entire value of the vehicle is counted unless the excluded

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household member is an SSI/SSP recipient or an ineligible student. If the vehicle is jointly owned by an eligible household member and an SSI/SSP recipient, an ineligible student or a nonhousehold member, then the vehicle is treated as follows:

If the registration uses the word "or" in the title, then the entire value of the vehicle is counted.

If the registration uses the word "and" or a "/" in the title, and the ineligible household joint owner agrees to sell the vehicle, then the entire value of the vehicle is counted and is considered available to the household. If the joint owner refuses to sell, then none of the value of the vehicle is counted.

Each vehicle is valued individually. Therefore, there is no limit to the number of vehicles that may be excluded under the \$1500 equity value exclusion.

(ACIN I-17-02, March 14, 2002)

For CalFresh, vehicles are excluded as a resource effective January 1, 2004. (§63-501.3(c))

252-5H ADDED 2/04

In determining the resources of a household, vehicles shall be excluded. (§63-501.3(c) as revised effective January 1, 2004)

252-6

There is an exemption in the CalFresh Program for resources specifically excluded by federal statute as specified in §63-507. (§63-501.3(l), as renumbered effective June 1, 2001)

252-6A

Resources and/or income which are specifically excluded for CalFresh purposes by any other federal law include, but are not limited to:

1. Benefits received by children under the WIC, Special Milk program, School Breakfast or Lunch program, Summer Food Service Program for Children, Commodity Distribution Program, or Child and Adult Care Food Program.
2. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970.
4. Certain JTPA allowances.
5. Specified energy assistance payments, including those made under state or local laws.
6. Financial educational assistance under Title IV, BIA student assistance, Tribal Development Student Assistance payments, and certain Carl D. Perkins payments.
7. Restitution payments to certain World War II U.S. citizens and permanent resident aliens of Japanese descent, and to certain Aleut residents who suffered injustices during World War II.

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8. Agent Orange Settlement Fund payments.
9. EITC advance or lump-sum payments, which may be excluded for 12 months.
10. Major disaster and emergency assistance under the Disaster Relief Act of 1974, and comparable payments made by states, local governments, and disaster assistance organizations.
11. Payments from the Radiation Exposure Compensation Trust.
12. Reductions from basic pay under the Veterans' Benefits Improvement and Health Care Authorization Act of 1986.
13. Certain payments under Title II of the Domestic Volunteer Services Act.
14. Certain payments under Title I of the Domestic Volunteer Services Act, for income purposes only. 15. Senior Community Service Employment Program payments to individuals at least 55 years old under Title V of the Older Americans Act, for income purposes only.
16. Certain child care payments under Title IV-A of the Social Security Act, including TCC, At-Risk Block Grant Payments, and Child Care and Development Block Grant Payments, for income purposes only.
17. Payments under Title I of the National and Community Service Act of 1990.
18. Payments to victims of Nazi Persecution.

(§63-507(a))

#### 252-7 REVISED 9/06

At the time of application, any resources of a woman or women with children who are temporarily residing in a shelter for battered women shall be considered inaccessible if the resources are jointly owned by the resident and member of the former household from which the resident fled and the resident's access to such resources requires the consent of the resident and the member of the former household. (§63-501.3(n))

#### 252-8 REVISED 9/06

The income and resources of nonhousehold members and excluded household members that have not been disqualified, such as SSI/SSP recipients, ineligible students and foster children shall not be considered as income or resources to the household. (§63-503.45)

#### 252-9 REVISED 11/05

The income and resources of a household member who has been excluded because of an IPV disqualification, conviction of a disqualifying drug felony, a workfare or work requirement sanction, as a fleeing felon or a probation/parole violator shall continue to be counted in their entirety and the entire household's allowable earned income, standard, medical, dependent

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care, and excess shelter deductions shall continue to apply to the remaining household members. (§63-503.441)

#### 252-10

Resources of Public Assistance (PA) recipient household members shall be excluded as property to the extent the resource was used in determining those members' eligibility for PA. (§63-501.3(p))

#### 252-11

Resources of a business that are identifiable, such as funds in a checking or savings account, whether maintained exclusively or commingled, shall be excluded from resources to the extent that the funds represent average self-employment income and the funds are necessary to produce that income, for the period of time over which the funds have been averaged. (§63-501.3(f)(2))

#### 252-12 ADDED

4/11 Effective December 17, 2010, all earned income tax credit payments are exempt as income and resources for 12 calendar months, regardless of whether the household had been participating in the CalFresh or Food Stamp Program at the time of receipt.

All County Letter 11-13, February 2, 2011 implementing changes to the Internal Revenue Code of 1986 mandated by H.R. 4853

#### 252-12A

A federal earned income tax credit (EITC) shall be excluded as a resource if received either as a lump sum or as payment under the Internal Revenue Code and it shall be excluded as a CalFresh resource for the month of receipt and the following month for the individual and his/her spouse. (§63-501.3(m)(1), as renumbered effective June 1, 2001)

Any federal, state, or local EITC payment received by any household member shall be excluded as a resource for 12 months, provided the household was participating in the CalFresh program at the time the EITC was received, and provided the household participates continuously during that 12-month period. Prior to November 12, 1996, continuous participation included breaks in participation of one month or less due to administrative reasons, such as delayed recertifications or missing or late CA 7s/QR 7s. Effective November 12, 1996, all households (except for migrant and seasonal farmworker household) which had any period of noncertification for administrative reasons are not considered to have continuously participated. (§63-501.3(m)(2), as renumbered effective June 1, 2001)

#### 252-12B

Nonrecurring lump sum payments are excluded as income but counted as a resource in the month received unless specifically excluded as a resource by other federal law. (§63-501.1; 7 Code of Federal Regulations (CFR) §273.9(c)(8))

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The CDSS has given examples of three types of such payments, based on the federal regulation set forth above:

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.

(All-County Information Notice No. I-13-01, February 15, 2001)

252-12C ADDED 2/04

Property eligibility is determined only once per payment period. (All-County Letter No. 03-18, April 29, 2003, p.16)

252-12D ADDED

4/11

Effective December 17, 2010, counties must exempt all federal income tax credit and refund payments from resource consideration for CalFresh applicants and recipients for 12 calendar months starting with the month of receipt of the payment.

All County Letter 11-13, February 2, 2011 implementing changes to the Internal Revenue Code of 1986 mandated by H.R. 4853

252-13 REVISED 8/04

Welfare and Institutions Code §§11452 and 11453 provide for an increase in the AFDC Minimum Basic Standard of Adequate Care (MBSAC). (Note that as of January 1, 1998 there is no longer an AFDC program, nor do the statutes provide for an automatic COLA.)

For monthly reporting households subject to retrospective budgeting, if the county sends a COLA supplemental payment in the month of July for that month, but did not have time to prospectively budget the supplemental payment, the county shall retrospectively budget it in September. (§63-503.232(c)(5)(A) prior to the implementation of QR/PB in the county)

If the July supplement is sent after July 31 (e.g., in August), it is considered a nonrecurring lump sum payment for CalFresh purposes and is counted as a resource in the month it is sent. (§63-502.2(j)) This provision applies to both retrospectively and prospectively budgeted households. (All-County Letter No. 97-32, May 6, 1997)

252-14 REVISED 5/05

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Excluded household members who are fleeing felons and probation/parole violators, or drug felons, or sanctioned for Intentional Program Violations, shall have their income and resources counted in their entirety for purposes of determining household eligibility and coupon allotment.

In addition, such excluded household members render the household ineligible for categorical aid status.

(All-County Letter No. 98-19, March 17, 1998, referencing §§63-402.22, 63-503.44, and 63-801.7)

Some convicted drug felons are now eligible for CalFresh benefits (Welfare and Institutions Code (W&IC) §18901.3)

#### 252-15

It is the policy of the CDSS that when an excluded CalFresh household (HH) member fits two income and/or resource categories, the stricter treatment of income and/or resources is used. A chart included in the All-County Information Notice (ACIN) set forth the treatment of the excluded HH member's income and resources in these situations. (ACIN I-34-99, p.3, May 11, 1999)

#### 252-16 REVISED 6/07

Effective November 1, 2006 for change reporting and new households, restricted accounts as defined in §89-130 are an excluded resource.

For reporting households, the county must review each QR 7/SAR 7/SAWS 2 received on or after October 1, 2006 or each recertification on or after October 1, 2006 to determine if the exclusion applies (ACL 06-31; §63-501.3(r) became effective November 1, 2006 instead of October 1, 2006)

#### 252-17 ADDED 7/09

Effective July 1, 2009 for the existing non-assistance CalFresh caseload and no later than January 1, 2010 for new CalFresh applicants, counties shall confer modified categorical eligibility (MCE) to those households **with children under 18** who would otherwise be eligible for CalFresh benefits--except for their exceeding the resource limit--by providing the household with a "Family Planning – PUB 275" brochure. Conferring MCE means that resources are not considered for purposes of CalFresh program eligibility. The brochure contains information on locating family planning services providers and the benefits of family planning services available to assist households in need. At the time of implementation, counties must apply this process on a county-wide basis. (ACL 09-24, May 27, 2009)

#### 252-17A ADDED 7/09

**Question:** Which households will meet the definition of "families" for the purpose of qualifying for Modified Categorical Eligibility (MCE)?

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**Answer:** Non-Assistance CalFresh applicant households with children under 18 who would otherwise be eligible for CalFresh benefits except that the household (HH) would be resource ineligible.

**Question:** Must a child be CalFresh eligible? (What if the only child is receiving SSI/SSP or is an ineligible non-citizen?)

**Answer:** No, but the family must meet all other CalFresh Program eligibility requirements except resources.

(ACL 09-24, May 27, 2009)

252-17B ADDED 7/09

**Question:** When the only child turns 18, when will we need to reevaluate eligibility based upon regular resource limits?

**Answer:** For all households, reevaluate eligibility for MCE at recertification.

(ACL 09-24, May 27, 2009)

252-17C ADDED 7/09

**Question:** Once a family has been provided with a TANF-funded brochure, does the family's MCE status remain through future breaks in aid?

**Answer:** Yes, as long as the household's MCE status remains unchanged. A PUB 275 only needs to be provided to households with children whose resources might make them ineligible for CalFresh benefits.

(ACL 09-24, May 27, 2009)

253-1

If a resource is jointly held by members of the same CalFresh household and one member receives PA and the other does not, exclude the amount considered in determining PA eligibility. (§63-501.22, effective July 1, 1992)

253-3

Resources owned jointly by separate households (including non-CalFresh households) shall be considered available in their entirety to each household, unless it can be demonstrated by the applicant household that such resources are inaccessible to that household. If the household can demonstrate that it has access to only a portion of the resource, the value of that portion of the resource shall be counted toward the household's resource level. The resource shall be considered totally inaccessible to the household if the resource cannot practically be subdivided and the household's access to the value of the resource is dependent on the agreement of a joint owner who refuses to comply. A resource cannot be practically subdivided if the financial value of the proportionate share would be significantly reduced by sale of only the subdivision. Resources owned jointly by household members and persons in the household who are

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disqualified or ineligible aliens (who would otherwise be household members) shall be considered available to the household, as required by §63-503.44. (§63-501.21)

#### 253-6

A transfer of property may be made without writing, unless there is a statute which requires a writing. (Civil Code (Civ. C.) §1052)

A transfer in writing is called a grant, or conveyance or bill of sale. (Civ. C. §1053) A grant takes effect only when it is delivered to the grantee. (Civ. C. §1054) A grant duly executed is presumed to have been delivered as of the date on the grant. (Civ. C. §1055)

#### 253-10

An estate in real property (other than an estate at will, or for a term not exceeding one year) can be transferred only by operation of law, or by an instrument in writing, signed by the grantor or the grantor's duly authorized agent. (Civil Code §§1091 and 1624(a)(3) and (4))

#### 256-1 REVISED 2/04

Prior to January 1, 2004, for CalFresh purposes the value of all nonexempt resources, with the exception of vehicles specified in §§63-501.52 and .53 shall be their equity value. The equity value is the fair market value less encumbrances. (§63-501.12 as revised effective June 1, 2001)

The value of all nonexempt resources shall be their equity value. The equity value is the fair market value less encumbrances. (§63-501.12 effective January 1, 2004)

#### 256-1A REVISED 2/04

Prior to January 1, 2004, for CalFresh purposes each licensed vehicle that is not exempted under §63-501.521 (renumbered to §42-215.431 effective January 1, 2004) shall be individually evaluated for fair market value (FMV). The portion of the FMV of any individual vehicle which exceeds the vehicle exclusion limit (\$4650 since October 1996) shall count toward the family's resource level. It does not matter if there are any encumbrances on the vehicle, or how much the family has invested in the vehicle, or whether the vehicle is used to transport family members to and from employment. (§63-501.522 revised and renumbered to §42-215.44 effective January 1, 2004)

Licensed vehicles shall also be evaluated for their equity value, except for excluded vehicles under §63-501.521 (renumbered to §42-715.44 effective January 1, 2004), one licensed vehicle per adult family member (regardless of the vehicle's use), and any licensed vehicle driven by a family member under 18 years of age to go to work, school, job training or to look for work. (§63-501.523, as revised effective June 1, 2001 and renumbered to §42-215.45 effective January 1, 2004).

When a licensed vehicle is assigned both an FMV and an equity value, that portion of the FMV which exceeds \$4650 is compared with the equity value. Use only the greater of these two

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values in determining resource eligibility. (§63-501.524 renumbered to §42-215.46 effective January 1, 2004)

Effective January 1, 2004, in determining the resources of a CalFresh household, vehicles shall be excluded. (§63-501.3(c) as revised effective January 1, 2004)

#### 256-1B ADDED 2/04

The value of nonexcluded resources shall be their equity value. The equity value is the fair market value less encumbrances. (§63-501.5 as revised effective January 1, 2004)

#### 256-1C ADDED 2/04

In determining the resources of a CalFresh household, vehicles shall be excluded. (§63-501.3(c) as revised effective January 1, 2004)

#### 256-2 REVISED 2/04

Prior to January 1, 2004, for CalFresh purposes to determine the countable resource value of vehicles, use Steps 1 through 5 as set forth below:

#### Step One

Determine if any vehicles in the household are excludable as a resource. Vehicles in this category include those that are:

1. Income producing.
2. Annually producing income consistent with Fair Market Value (FMV), even if used on a seasonal basis.
3. Necessary for long distance travel to employment other than daily commuting, e.g., traveling salesman.
4. Used as a home.
5. Necessary to transport a physically disabled household member.
6. Used as income producing by a self-employed household member who is temporarily unemployed. Exclude for one year after the date of termination of self-employment in farming.
7. Used to carry fuel for heating or water for home use when such fuel or water is the primary source of fuel or water for the household.

If none of the vehicles in the household is excluded from resource consideration, or there are remaining vehicles left to be evaluated, go to Step 2.

#### Step Two

Exclude any vehicle, licensed or unlicensed, that is an inaccessible resource (a vehicle that will

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not produce an estimated return of more than \$1,500). Valuation of an inaccessible vehicle is required at application and when a new vehicle is reported. Reevaluation is required only at redetermination.

#### Step Three

If there are remaining licensed nonexcluded vehicles, determine the number of adult household members (which includes ineligible noncitizens or disqualified family members whose resources are considered available to the AU) and exempt one vehicle each from equity valuation. The FMV must be calculated, and the excess FMV is considered as a countable resource.

If any of the remaining licensed nonexcluded vehicles in the family are used by a teenager under age 18 (which includes an ineligible noncitizen or disqualified household member whose resources are considered available to the household) to drive to work, school, job training, or to look for work, that vehicle is exempt from equity value, but must be evaluated for FMV. The excess FMV is considered a countable resource.

#### Step Four

For any remaining licensed vehicles, compute the FMV and the equity value. Use the greater of the excess FMV or equity value as the countable resource value.

#### Step Five

For any remaining unlicensed vehicles (not excluded under Step Two) compute the equity value of each and use the resultant amount as a countable resource value.

Add the values of the above resource values to arrive at the total vehicle resource value.

(§63-501.525, as revised effective February 21, 2002, revised again and renumbered to §42-215.47 effective January 1, 2004)

#### 256-2A REVISED 2/04

Prior to January 1, 2004, for CalFresh purposes when the term "wholesale value" is not used in a particular "blue book", the county should determine the value of a vehicle based on the "trade-in value", not the "retail value". Blue book values, whether on the Internet or in a hardcopy book must be used, rather than Internet sites which give values that are not based on the blue book. Once the county has determined which blue book site or hardcopy it will use, it must use that authority consistently in all CalWORKs and CalFresh evaluations. (§63-501.511 renumbered to §42-215.411 effective January 1, 2004; All-County Information Notice (ACIN) No. I-124-00, December 28, 2000)

#### 256-2B REVISED 2/04

The U.S. Circuit Court of Appeals, 9th Circuit, held that vehicles which are not excluded as resources, and whose fair market (or gross) value exceeds the maximum allowable (then \$4500, now \$4650), are not considered inaccessible resources, even when the encumbrances on the vehicle exceed the gross value of the vehicle. Thus plaintiff, whose car had a gross value of \$6625, and a lien of \$8300, was ineligible for CalFresh benefits because the countable

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value of the vehicle was \$2125 (\$6625-\$4500). This exceeded the \$2000 resource limit. (*Alexander v. Glickman* (1998) 139 F.3d 733)

Due to changes in federal and state regulations, vehicles which will not produce an estimated return of more than \$1500 are considered inaccessible resources, and thus are excluded from resource consideration. (7 Code of Federal Regulations §273.8(e), effective January 20, 2001 and to be implemented by June 1, 2001; §63-501.525, effective June 1, 2001 and renumbered §42-215.471 effective January 1, 2004)

Effective January 1, 2004, in determining the resources of a CalFresh household, vehicles shall be excluded. (§63-501.3(c) as revised effective January 1, 2004)

#### 256-2C REVISED 2/04

Prior to January 1, 2004, for CalFresh purposes the entire value of a licensed vehicle is exempt if it is necessary to transport a physically disabled household (HH) member, whether excluded (such as an SSI/SSP recipient) or included, regardless of the purpose of such transportation.

1. Verification of the physical disability shall be required if it is not evident to the eligibility worker.
2. A physician must certify that the individual is temporarily or permanently physically disabled.
3. Only one vehicle per physically disabled HH member may be excluded.
4. The vehicle need not have special equipment, nor be used primarily by or for the transportation of the physically disabled HH member.

A vehicle shall be considered necessary for the transportation of a physically disabled HH member if the vehicle is specially equipped to meet the specific needs of the disabled person, or if the vehicle is of a special type that makes it possible to transport such person.

(§63-501.521(e) renumbered to §42-215.431(e) effective January 1, 2004; United States Dept. of Agriculture, Food and Nutrition Services, FS-6-1-CA, November 9, 1999 interpreting 7 United States Code §2011(g)(2)(c)(ii); All-County Letter (ACL) No. 00-06, January 4, 2000; *Anderson v. Saenz*, dealing with the retroactivity of this change, as set forth in ACL No. 00-31, May 11, 2000)

Effective January 1, 2004, in determining the resources of a CalFresh household, vehicles shall be excluded. (§63-501.3(c) as revised effective January 1, 2004)

#### 256-2D REVISED 2/04

Prior to January 1, 2004, for CalFresh purposes a vehicle can be excluded as a resource in the CalFresh program when it is necessary to transport a physically disabled household member, regardless of the purpose of such transportation. The vehicle is not excluded on the basis that it is necessary to transport a mentally disabled household member. (§63-501.521(e) renumbered to §42-215.431(e); All-County Information Notice (ACIN) No. I-124-00, December 28, 2000)

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Effective January 1, 2004, in determining the resources of a CalFresh household, vehicles shall be excluded. (§63-501.3(c) as revised effective January 1, 2004)

#### 256-2E REVISED 9/06

Federal regulations provide that a vehicle is excluded from consideration as a resource in the CalFresh program when the value of the vehicle is inaccessible (in accord with 7 Code of Federal Regulations (CFR) §273.8(e)(18)) because its sale would produce an estimated return of not more than \$1500. (7 CFR §273.8(e)(3)(i)(G), effective January 20, 2001, to be implemented by June 1, 2001)

Effective January 1, 2004, in determining the resources of a CalFresh household, vehicles shall be excluded. (§63-501.3(c) as revised effective January 1, 2004)

#### 256-2F

Federal CalFresh regulations provide that certain assets are excluded from consideration as resources. Among these exclusions are resources whose sale would not produce a significant return, or the costs of selling the household's interests are relatively great. Specifically, the regulations provide as follows:

"The State agency must develop clear and uniform standards for identifying kinds of resources that, as a practical matter, the household is unable to sell for any significant return because the household's interest is relatively slight or the costs of selling the household's interest would be relatively great. The State agency must so identify a resource if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household or the cost of selling the resource would be relatively great. This provision does not apply to financial instruments such as stocks, bonds, and negotiable financial instruments. The determination of whether any part of the value of a vehicle is included as a resource must be made in accordance with the provisions of paragraphs (e)(3) and (f) of this section. The State agency may require verification of the value of a resource to be excluded if the information provided by the household is questionable. The State agencies must use the following definitions in developing these standards:

- "(i) 'Significant return' means any return, after estimating costs of sale or disposition, and taking into account the ownership interest of the household, that the State agency determines are more than \$1,500; and
- "(ii) 'Any significant amount of funds' means funds amounting to more than \$1,500."

(7 Code of Federal Regulations §273.8(e)(18), as modified effective January 20, 2001, and to be implemented by June 1, 2001)

#### 256-2G

The federal regulations exempt only the following vehicles from the equity value test outlined in 7 Code of Federal Regulations (CFR) §273.8(f)(1)(iii):

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- (i) Vehicles excluded under 7 CFR §273.8(e)(3)(i).
- (ii) One licensed vehicle per adult household member (or an ineligible alien or disqualified household member whose resources are being considered available to household), regardless of the use of the vehicle.
- (iii) Any other vehicle a household member under age 18 (or an ineligible alien or disqualified household member under age 18 whose resources are being considered available to household) drives to commute to and from employment, or to and from training or education which is preparatory to employment, or to seek employment. This equity exclusion applies during temporary periods of unemployment to a vehicle which a household member under age 18 customarily drives to commute to and from employment.

(7 CFR §273.8(f)(2), effective January 20, 2001, and to be implemented by June 1, 2001; these federal regulations were partially followed in state regulations issued effective June 1, 2001, but were not completely consistent, with federal regulations until §63-501.323 was revised effective February 21, 2002)

#### 256-2H REVISED 2/04

Prior to January 1, 2004, for CalFresh purposes, one licensed vehicle per adult family member (or an ineligible noncitizen or disqualified household member whose resources are being considered available to the household) shall be exempt from the equity value test. (§63-501.523(b), effective June 1, 2001, and revised effective February 21, 2002; revised and renumbered to §§42-215.452 and .482 effective January 1, 2004)

Effective January 1, 2004, in determining the resources of a CalFresh household, vehicles shall be excluded. (§63-501.3(c) as revised effective January 1, 2004)

#### 256-2J

The CDSS implemented CalFresh vehicle valuation amended regulations effective June 1, 2001. The CDSS issued several answers to vehicle valuation questions in an All-County Information Notice (ACIN). Some of those answers are set forth below:

- > Once a vehicle is evaluated, it does not need to be reevaluated until recertification/redetermination.
- > To be considered licensed, a vehicle must be registered to be operated on public roads. A vehicle registered as “nonoperative” is evaluated as an unlicensed vehicle per §63-501.53. Even if a person has paid all registration fees on the vehicle, the vehicle may be considered to be unlicensed if the Department of Motor Vehicles (DMV) is withholding vehicle registration, such as when the owner has unpaid parking tickets or has not obtained a smog certificate.
- > A leased vehicle, or one that has a lease/purchase option, is not considered a resource. An unlicensed vehicle that is being used as a home is excluded as a resource.
- > If a vehicle is jointly owned by an eligible household member and an excluded

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household member, then the entire value of the vehicle is counted unless the excluded household member is an SSI/SSP recipient or an ineligible student. If the vehicle is jointly owned by an eligible household member and an SSI/SSP recipient, an ineligible student or a nonhousehold member, then the vehicle is treated as follows:

If the registration uses the word "or" in the title, then the entire value of the vehicle is counted.

If the registration uses the word "and" or a "/" in the title, and the ineligible household joint owner agrees to sell the vehicle, then the entire value of the vehicle is counted and is considered available to the household. If the joint owner refuses to sell, then none of the value of the vehicle is counted.

Each vehicle is valued individually. Therefore, there is no limit to the number of vehicles that may be excluded under the \$1500 equity value exclusion.

(ACIN I-17-02, March 14, 2002)

Effective January 1, 2004, in determining the resources of a CalFresh household, vehicles shall be excluded. (§63-501.3(c) as revised effective January 1, 2004)

#### 256-3 REVISED 2/04

Prior to January 1, 2004, for CalFresh purposes a household may indicate that for some reason, such as body damage or inoperability, a vehicle is in less than average condition. Any household which claims that the blue book value does not apply to its vehicle shall be given the opportunity to acquire verification of the true value from a reliable source. (§63-501.513 renumbered to §42-215.413)

Effective January 1, 2004, in determining the resources of a CalFresh household, vehicles shall be excluded. (§63-501.3(c) as revised effective January 1, 2004)

#### 256-4A REVISED 5/05

Federal CalFresh regulations provide for evaluating unlicensed vehicles based solely on their equity value. (7 Code of Federal Regulations (CFR) §273.8(c)(2))

Unlicensed vehicles are among those resources which are counted as resources only to the extent that they accessible to the household when the unlicensed vehicle is jointly owned. (7 CFR §273.8(d)) Unlicensed vehicles are included among those resources which are excluded from resource consideration when the unlicensed vehicle is in probate, or when the household is making a good faith effort to sell the vehicle at a reasonable price, and the vehicle has not been sold. (7 CFR §273.8(e)(8))

Effective January 1, 2004, in determining the resources of a CalFresh household, all vehicles shall be excluded. (§63-501.3(c) as revised effective January 1, 2004)

#### 256-5

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Resources owned jointly by separate households (including non-CalFresh households) shall be considered available in their entirety to each household, unless it can be demonstrated by the applicant household that such resources are inaccessible to that household. If the household can demonstrate that it has access to only a portion of the resource, the value of that portion of the resource shall be counted toward the household's resource level. The resource shall be considered totally inaccessible to the household if the resource cannot practically be subdivided and the household's access to the value of the resource is dependent on the agreement of a joint owner who refuses to comply. A resource cannot be practically subdivided if the financial value of the proportionate share would be significantly reduced by sale of only the subdivision. Resources owned jointly by household members and persons in the household who are disqualified or ineligible aliens (who would otherwise be household members) shall be considered available to the household, as required by §63-503.44. (§63-501.21)

256-6

Under Vehicle Code (VC) §2150.5(d), the Department of Motor Vehicles (DMV) may make suitable abbreviations to implement the law.

The following reflects the DMV policies in regard to transfers of vehicles:

"Basic Transfer Requirements (VC§§5603, 5751, and 5753)

"The basic transfer requirements for a California-registered vehicle are listed below. Refer to the appropriate section in this chapter for the clearance requirements for other types of transfer transactions.

"- The California Certificate of Title properly endorsed for transfer as follows:

"Line 1--The registered owner(s) of record must release interest as follows:

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if the vehicle is registered to...	then the following is required...
co-owners joined by "and" (a slash "/")	the signature of each owner.
co-owners joined by "or" or by "and/or"	the signature of only one owner.
co-owners with a "JTRS" designation	the signature of each owner.
a business entity	the name of the business entity and the countersignature of an authorized representative.
an individual doing business as (DBA)	the signature of the individual.
a sole owner(s) (there is no legal owner/lienholder of record)	the signature of the sole owners(s).

NOTE: You may accept the signature of a sole owner on Line 2 instead of Line 1.

NOTE: A bill of sale is acceptable in lieu of the registered owner's signature(s) on Line 1.

"Line 2--The legal owner/lienholder of record, if any, must release interest unless the name of the legal owner/lienholder is to remain the same for the new owner. In this case, the name and address of the legal owner/lienholder must be reentered for

the new owner on the back of the title.

"New Registered Owner Section--The name, address, and driver license or identification card number (DL/ID#) for each new registered owner must be entered on the appropriate lines."

(DMV Registration Procedure Manual §5.005)

256-7

Under California Law, the ownership of property is the right of one or more persons to possess and use that property to the exclusion of others. (Civil Code (Civ. C.) §654)

The person's ownership of property is absolute when that person has absolute dominion over the property, and may use it or dispose of it as he or she wishes. (Civ. C. §679)

256-8

Under California law, a gift is a voluntary transfer of personal property, for which the donor receives no "consideration". (Civil Code (Civ. C.) §1146)

"Consideration" is a benefit given directly, or agreed to be given, to one person by another when there is no legal obligation to do so. Consideration may also exist when one person agrees not to pursue an action, or claim, or a right, against another person against whom that course of action could otherwise be pursued. (Civ. C. §1605)

257-1

At the time of application, households shall be asked to provide information regarding any resources which any household member or ineligible alien or disqualified person has transferred within the three-month period immediately preceding the date of application. Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for CalFresh benefits shall be disqualified from participation in the program for up to one year from the date of the discovery of the transfer. This disqualification period shall be applied if the resources are transferred knowingly in the three-month period prior to application or if they are transferred knowingly after the household is determined eligible for benefits. (§63-501.61)

257-2

Eligibility for the CalFresh Program shall not be affected by the following transfers:

- (1) Resources which would not otherwise affect eligibility.
- (2) Resources which are sold or traded at, or near, fair market value.

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- (3) Resources which are transferred between members of the same household, including ineligible aliens or disqualified persons.
- (4) Resources which are transferred for reasons other than qualifying for CalFresh benefits.  
(§63-501.62)

#### 257-3

The length of the disqualification period for disqualifying transfers of resources shall be based on the amount by which nonexempt transferred resources, when added with other countable resources, exceed the allowable CalFresh resource limit. (§63-501.64)

#### 257-4

The period of disqualification when a transfer to qualify has occurred is determined by considering the amount of the disqualifying transfer, adding this to other countable resources, and disqualifying the household in accord with the following chart:

Amount in excess of resource limit	Period of disqualification
\$0 - \$249.991	1 month
\$250 - \$999.99	3 months
\$1,000 - \$2,999.99	6 months
\$3,000 - \$4,999.99	9 months
\$5,000 or more	12 months

(§63-501.64)

#### 258-1 ADDED 2/04

Property eligibility is determined only once per payment period. (All-County Letter No. 03-18, April 29, 2003, p.16)

#### 258-2 ADDED 2/04

The county will use information reported on the QR 7/SAR 7/SAWS 2 to determine continuing property eligibility for the entire upcoming payment period. No other property eligibility assessment may be made for that payment period.

If the assistance unit/household acquires property in excess of the property limit in the third month of the payment period (i.e., the Submit Month) or in the first month of the next payment period, the assistance unit/household remains eligible for the entire payment period. (All-County Letter No. 03-18, April 29, 2003, p.16-17)

#### 258-3 ADDED 2/04

The only time an assistance unit /household is required to report property is on the QR 7/SAR 7/SAWS 2. Property related overpayments/overissuances will be determined based on information that should have been reported on the QR 7/SAR 7/SAWS 2. An assistance unit/household is only required to report property when property exceeds the limit in the data

month.

If a recipient owned property that exceeded the resource limit in the data month of the quarter and failed to report it on the QR 7/SAR 7/SAWS 2, or if the county failed to act correctly on a report of property that exceeds the limit, the county shall determine the benefits the assistance unit/household should have received. (All-County Letter No. 03-18, April 29, 2003, p.72)