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EDMUND G. BROWN JR.  
GOVERNOR

June 09, 2017

ALL COUNTY LETTER (ACL) NO. 17-57

TO: ALL COUNTY WELFARE DIRECTORS  
ALL CONSORTIUM PROJECT MANAGERS  
ALL COUNTY CALFRESH COORDINATORS  
ALL COUNTY CALWORKS PROGRAM SPECIALISTS  
ALL COUNTY WELFARE FRAUD INVESTIGATORS

SUBJECT: ELECTRONIC SIGNATURES IN THE CALFRESH AND  
CALWORKS PROGRAMS

REFERENCE: [TITLE 7 UNITED STATES CODE SECTION 2020](#); [AFFORDABLE CARE ACT OF 2010 \(PUBLIC LAW 111-148\)](#); [FOOD AND NUTRITION ACT OF 2008 SECTION 11\(e\)\(2\)\(C\)\(i\),\(ii\)](#); [FEDERAL REGISTER VOLUME 82, NO.4, DATED JANUARY 6, 2017](#); [7 CODE OF FEDERAL REGULATIONS \(CFR\) 272.1\(f\)](#); [7 CFR 273.12\(a\)\(5\)\(iii\)](#); [7 CFR 273.14\(b\)\(2\)](#); [7 CFR 273.2\(c\)\(7\)](#); [7 CFR 273.2\(c\)\(7\)\(v\)](#); [MANUAL OF POLICIES AND PROCEDURES \(MPP\) SECTIONS 40-105](#); [40-107](#); [40-131.11](#); [40-181.241\(SAR\)\(c\) 63-300.4](#) AND [63-300.5\(e\)\(3\)](#); CIVIL CODE SECTION 1633.1-1633.17; ALL COUNTY LETTER ([ACL](#)) [NO. 07-40](#); [14-26](#); [15-26](#); [16-119](#); [ALL COUNTY INFORMATION NOTICES \(ACIN\) I-60-13](#) AND [I-45-11](#); ALL COUNTY WELFARE DIRECTORS LETTER (ACWDL) NO. 14-06; [UNITED STATES DEPARTMENT OF AGRICULTURE \(USDA\) FOOD AND NUTRITION SERVICE \(FNS\) ADMINISTRATIVE NOTICE \(AN\) NO. 16-28](#)

REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order
- ☒ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

The purpose of this letter is to provide County Welfare Departments (CWDs) with clarification regarding the optional use of electronic signatures for the CalFresh and CalWORKs programs. This letter is intended to assist counties in providing expanded customer service and access to CalFresh and CalWORKs over the telephone and online.

## **BACKGROUND**

On September 26, 2013, the California Department of Social Services (CDSS) issued ACIN No. I-60-13 detailing requirements specific to the optional use of “telephonic signatures,” as provided by Section 11(e)(2)(C)(i) and (ii) of the Food and Nutrition Act of 2008. Since the issuance of that ACIN, new developments in county business processes, technology changes, and the release of final federal regulations have necessitated further direction.

Updated federal guidance regarding the use of electronic signatures in the Supplemental Nutrition Assistance Program (SNAP), including but not limited to recorded telephonic signatures, was provided by the USDA FNS AN No. 16-28, issued May 3, 2016.

The final rule released by FNS via the Federal Register Volume 82, No. 4, dated January 6, 2017, added section 273.2(c)(7) and provides program rules regarding the use of electronic and telephonic signatures at the times of application, recertification, and periodic report. The rule is effective May 8, 2017. The direction provided in this ACL reflects both the guidance provided in AN No. 16-28 and the recently issued final rule.

## **REQUIREMENTS**

To be considered an electronic signature for CalFresh, the following requirements must be met:

1. The client must take an affirmative action to indicate concurrence, such as entering a Personal Identification Number (PIN) or providing verbal affirmation.
2. The record of the signature must be maintained electronically and linked to the document to which the signature attests.
3. The process put in place for CalFresh must constitute a legal signature in the State of California, as defined by the Secretary of State and the Uniform Electronic Transactions Act.

## **ELECTRONIC SIGNATURE OPTIONS**

AN No. 16-28 outlined a range of options that may be used in meeting the requirements of an electronic signature for CalFresh:

1. Handwritten signature input onto an electronic signature pad
2. Handwritten signature, mark, or command input on a display screen (e.g. stylus device used to sign a document displayed on a touch screen)
3. Digitized image of a handwritten signature that is attached to an electronic record
4. Typed name (e.g. on an online application)

5. Unique identifier (e.g. code, password, or PIN)
6. Electronically recorded sound (e.g. voice recording, telephonic signatures)
7. The process of using a mouse to click a button (such as an “I Agree” button)
8. Digital signature

FNS clarified that states can “implement a variety of electronic signatures over the telephone, as long as the signature complies with the program requirements.” A telephonic signature defined as an electronically recorded verbal assent is one type of electronic signature. Other electronic signature options may also be accepted over the telephone.

## **ELECTRONIC SIGNATURE USAGE**

The final rule includes amendments to federal SNAP regulations at 273.2(c)(7) so that the electronic signature provisions apply to the initial application, applications submitted at recertification [273.14(b)(2)], and periodic reports [273.12(a)(5)(iii)]. Recertification applications and periodic reports are functionally equivalent to applications in that they are clients’ signed statements of circumstances.

## **CWD RESPONSIBILITIES**

ACIN No. I-60-13 includes a detailed description of CWD responsibilities and the required elements of a telephonic signature for CalFresh. These responsibilities now apply to all electronic signature options:

- Ensure that an adult member of the CalFresh household or Authorized Representative takes an affirmative action to indicate concurrence.
- Maintain an electronic record of the signature and link the record to the document to which the signature attests. The record must be maintained for a minimum of three years [7 CFR 272.1(f)].
  - For the telephonic signature option, CWDs must have technology in place to catalog and maintain a retrievable audio file recording of both the household’s verbal assent and a summary of information to which the household assents. An example of verbal assent or agreement during an interview is a recording of “Yes,” “No,” “I agree,” “I do not agree,” or an otherwise clear indication of agreement or disagreement. A recording of the summary of the information to which the household assents does not require a recording of the entire interview.
  - For other electronic signature options, such as the unique identifier, CWDs must have technology in place to catalog and maintain a retrievable electronic

record of the applicant's affirmative action (i.e. record of household member entering the unique identifier).

- For all households that file a non-paper application, recertification application, or periodic report with electronic signature, promptly provide a written copy of the information given over the phone, along with simple instructions for correcting errors or omissions, so that the applicant may review the information that has been recorded electronically and make any necessary changes within ten business days. The copy must contain the information used to determine eligibility and benefit level. In most instances a copy of the application, recertification application, or periodic report submitted will suffice.
- Establish effective safeguards to protect against identity theft, impersonation, and invasions of privacy. See ACIN No. I-45-11 for further information regarding verification requirements. The verification of identity need not occur as part of the electronic signature process.
- Ensure that the electronic signature process does not deny or interfere with a client's right to apply for benefits in person or in writing.
- CWDs must use the date of the electronic signature as the date of application.

Please note that a CWD is not required to obtain a handwritten signature in addition to an electronic signature.

## **UNIQUE IDENTIFIER**

With the goal of completing applications, recertification applications, and periodic reports over the telephone, and with the understanding that the capacity to store audio files may present a technology challenge, CDSS recommends that CWDs consider the unique identifier option. This newly clarified option provides an alternative to the telephonic signature and may be integrated into telephone business processes. For example, Interactive Voice Response (IVR) technology may be used to capture the client's affirmative action indicating concurrence (i.e. entering the unique identifier) and to create a record of the client's action. This record should be retrievable and satisfies California's requirements for a legal signature. Unique identifiers that may be used when employing this option include, but are not limited to:

- Last four digits of Social Security Number
- Last four digits of case number
- PIN previously provided (auto-generated by IVR system)
- PIN provided over the phone by CWD
- Birthdate of applicant

Please note that the use of a unique identifier is not intended to establish identity, and that existing rules remain in effect for the verification of identity [MPP 63-300.5(e)(3)].

## **RIGHTS AND RESPONSIBILITIES**

When utilizing electronic signatures, all current CDSS MPP requirements remain in effect. MPP 63-300.4, in regard to the application process, specifies that “Households shall be advised of their rights and responsibilities during the interview, including but not limited to, the appropriate application processing standard, the household's responsibility to report changes, that eligibility will be determined without discrimination, and the availability and amount of the Standard Utility Allowance (SUA).” As with a handwritten signature, when an electronic signature is used, normal business practices regarding rights and responsibilities shall be followed.

## **INTER-COUNTY TRANSFER**

Section 273.2(c)(7)(v)(A) of the final rule requires the State to “record for future reference the assent of the household member and the information to which assent was given.” When a household's case is transferred to another county, it is not required that the electronic signature record also be transferred to the new CWD. The CWD that initially created the electronic signature record must maintain the record for the same period of time as a handwritten signature, so that it may be retrieved if necessary.

## **MEDI-CAL REQUIREMENTS**

As a result of the Affordable Care Act, the Centers for Medicare and Medicaid Services and the Department of Health Care Services issued guidance regarding telephonic signatures for the Medi-Cal program. The guidance (ACWDL No. 14-06) clarified that if a county did not have the capability to store an audio recording of a telephonic signature, the county should create a case journal entry stating that the individual attested to the information provided. This process does not meet the requirements of an electronic signature for CalFresh and will not stand the test of a signed application in the event of a Quality Control case review.

## **CALWORKS**

The CalWORKs program adopts the majority of the procedures in this letter, described above, regarding the CalWORKs application, SAR 7 and redetermination processes. CWDs may need to develop operational procedures which allow for electronic signature options as long as CalWORKs program requirements are met. However, there are some programmatic distinctions between CalFresh and CalWORKs which shall remain unchanged, following release of this direction.

- For CalWORKs, MPP Section 40-131.11 requires a face-to-face interview prior to the granting of cash aid. This means that a client can apply using the SAWS 1 or

SAWS 2 Plus, but the eligibility interview would still need to take place in person. This rule does not apply if the CWD has included information in the county plan exercising its right to give clients the option to apply telephonically or by any other electronic means, as described in ACL 16-119, released December 30, 2016.

- The above section entitled “CWD Responsibilities” states CWDs must “Ensure that an adult member of the CalFresh household or Authorized Representative takes an affirmative action to indicate concurrence.” In other words, only one signatory is required in a CalFresh household. For the CalWORKs program, MPP Sections 40-181.217(e) and 40-181.241(SAR)(c) require the signatures of all aided adults, all parents of aided children and all caretaker relatives living in the home appear on the Statement of Facts, SAWS 2A SAR and SAR 7 forms. However, the SAWS 1 only requires one signature.

The Uniform Electronic Transactions Act (UETA) codified by California Civil Code Section 1633.1 et seq., and the requirements and options for electronic signatures described in the “Electronic Signature Options” section align with CalWORKs policy and are acceptable to use on the Statement of Facts, SAR 7, and other redetermination forms. It is the responsibility of the county to continue to use CalWORKs verification rules as described in ACL 14-26 as well as maintain accurate records of the signature which will link the record to the document to which the signature attests. In addition, the rules set forth in ACL 15-26 mandating the retention period for public assistance records shall also relate to electronic signatures, as applicable. The CWDs shall continue to adhere to CWD responsibilities as outlined in MPP Section 40-107 and inform clients as to their responsibilities as referenced in MPP Section 40-105.

If you have any questions regarding this ACL, please contact your CalFresh County Consultant or the CalFresh Policy Bureau at (916) 651-8047 or the CalWORKs Eligibility Bureau at (916) 654-1322.

Sincerely,

***Original Document Signed By:***

TODD R. BLAND  
Deputy Director  
Welfare to Work Division