



CDSS

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DEPARTMENT OF SOCIAL SERVICES

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GOVERNOR

October 12, 2017

ALL COUNTY LETTER (ACL) 17-98

REASON FOR THIS TRANSMITTAL

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

TO: ALL COUNTY WELFARE DIRECTORS
ALL CALFRESH PROGRAM SPECIALISTS
ALL CALWORKS PROGRAM SPECIALISTS
ALL CONSORTIA REPRESENTATIVES
ALL QUALITY CONTROL COORDINATORS

SUBJECT: CALFRESH INCOME, DEDUCTIONS, RESOURCES AND
EXCLUSIONS: FINAL FEDERAL REGULATORY
CHANGES

REFERENCES: ACL [08-37](#), [05-04](#), and [17-61](#); ALL COUNTY
INFORMATION NOTICE (ACIN) [1-24-07](#), [1-55-08](#), [1-29-09](#),
AND [1-32-08](#); [PUBLIC LAW 110--246](#); ADMINISTRATIVE
NOTICE (AN) - IMPLEMENTING OF THE ELIGIBILITY,
CERTIFICATION, AND EMPLOYMENT AND TRAINING
PROVISIONS OF THE FOOD, CONSERVATION AND
ENERGY ACT OF 2008; AN – UPDATED RETIREMENT
ACCOUNT EXCLUSIONS FROM RESOURCES, AN
08-09, 08-10, AND AN 17-17, 17-18 – QUESTIONS AND
ANSWERS; TITLE 7 CODE OF FEDERAL REGULATIONS
(CFR) [271.2](#) AND [273.10\(e\)\(2\)\(ii\)\(C\)](#), [273.8\(b\)](#), [273.9\(c\)\(2\)](#),
[273.9\(d\)\(1\)\(iii\)](#), [273.8\(e\)\(2\)](#), [273.8\(e\)\(20\)](#), AND [273.9\(d\)\(4\)](#).

This letter provides County Welfare Departments (CWDs) with guidance regarding regulatory changes to the Supplemental Nutrition Assistance Program (SNAP). The United States Department of Food and Agriculture, Food and Nutrition Service (FNS) recently issued final rule implementing provisions of the Food, Conservation and Energy Act (FCEA) of 2008. Though new regulations were effective May 8, 2017, many of these changes have already been implemented and reflect current CalFresh policy. New policy clarification regarding allowable dependent care expenses has been provided.

The final rule amends several SNAP regulations (cited throughout this letter) including regulations pertaining to the:

- Exclusion of military combat pay from income;
- Increase in the minimum standard deduction;
- Minimum benefit for small households;
- Elimination of the cap on the deduction for dependent care expenses;
- Indexing resource limits to inflation; and
- Exclusion of retirement and educational accounts from countable resources.

Background

The California Department of Social Services (CDSS) released ACIN I-55-08 on July 25, 2008, informing counties of the FCEA provisions. ACIN I-55-08 was followed by ACL 08-37 released on August 1, 2008 which provided CWDs with additional implementing instructions.

Additionally, ACIN I-29-09 released on May 1, 2009, transmitted a mass change notice which provided recipients with information regarding changes to CalFresh as a result of the FCEA.

On January 6, 2017 FNS issued the final rule implementing these provisions. This letter provides an overview of the resulting changes to the SNAP regulations which were effective May 8, 2017. The CDSS will update the CalFresh Manual of Policies and Procedures (MPP) to reflect these changes as soon as administratively possible.

Military Combat-Related Pay Exclusion **7 CFR Section 273.9(c)(20)**

This provision excludes military combat-related pay from income when determining CalFresh eligibility and benefit levels if the additional pay is the result of deployment to or service in a combat zone and was not received immediately prior to serving in a combat zone. This exclusion applies to payments made under section 5 of Title 37 of United States Code (U.S.C.).

Program Impact

None. This provision codifies in federal regulations existing CalFresh policy regarding the exclusion of military combat-related payments. For additional implementation details refer to ACINs I-24-07 and I-32-08; ACL 05-04; and ANs 08-09 and 08-10 released on January 25, 2008.

Standard Deduction Increase

7 CFR Section 273.9(d)(1)(iii)

This provision increases the minimum standard deduction from \$134 to \$144, effective FY 2009. Beginning in FY 2010 and each fiscal year thereafter, FCEA mandated that the minimum standard deduction be indexed to inflation.

Program Impact

None. The FNS calculates this amount annually and releases it to state agencies. The CDSS then releases a corresponding letter to CWDs.

Eliminating the Cap on Dependent Care Expenses

7 CFR Section 273.9(d)(4)

This provision eliminates the cap on the deduction from income for dependent care expenses, allowing eligible households to deduct the full amount of their dependent care costs when determining CalFresh eligibility and benefit levels. Eligible households include those who incur dependent care costs for a household member to search for, accept or continue employment, comply with employment and training requirements or attend training or pursue education preparatory to employment.

Allowable dependent care costs include:

- I. The costs of care given by an individual, provider, or care facility;
- II. Transportation costs to and from the care facility; and
- III. Activity or other fees associated with the care provided to the dependent that are necessary for the households to participate in care.

Note that allowable medical expenses may be deducted under the excess medical deduction or the dependent care deduction, but not both.

The Internal Revenue Service (IRS) standard mileage rate may be used to determine transportation expenses.

Currently, CWDs are not required to verify dependent care costs unless the amount being claimed is considered questionable. This extends to transportation costs included as part of dependent care costs. Questionable transportation costs should be verified on a case-by-case basis, but CWDs must establish guidelines for determining what is questionable.

The provision also clarifies that dependent care costs are deductible for children under the age of 18 or an incapacitated person of any age in need of care. For this provision only, *incapacitation* refers to any permanent or temporary

condition that prevents an individual from participating fully in normal activities including, but not limited to, work or school without supervision and that requires the care of another person to ensure the health and safety of the individual, or a condition that makes a lack of supervision risky to the health and safety of the that individuals. By extending the dependent care deduction to those who are incapacitated, the dependent care needs of any incapacitated CalFresh household member expected to comply with CalFresh work requirements, or who is working, in training or education programs, or seeking work, is allowable as a deduction.

The costs of care provided by a relative may be deducted so long as the relative providing care is not part of the same CalFresh household as the child or dependent adult receiving care.

Program Impact

This provision codifies existing CalFresh policy regarding the cap on dependent care expenses. The new clarification regarding the inclusion of transportation costs and activity fees expands the breadth of the deduction and reflects actual expenses incurred by households caring for dependents. For additional implementation details reference AN 17-17 released on May 3, 2017.

Asset Indexation

7 CFR Section 273.8(b)

This provision mandates that asset limits be indexed to inflation, rounded down to the nearest \$250, as of October 1, 2008. Each adjustment will be based on the unrounded amount for the prior 12-month period.

Program Impact

None. The FNS calculates this amount annually and releases it to state agencies. The CDSS then releases a corresponding letter to CWDs. Note that currently, most CalFresh households are not required to meet an asset limit test due to California's implementation of Broad Based Categorical Eligibility, referred to as *Modified Categorical Eligibility* in California.

Exclusion of Retirement Accounts from Resources

7 CFR Section 273.8(e)(2)

This provision excludes from resources 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 (IRC) of 1986 and the value of funds in a Federal Thrift Savings Plan account as provided for in 5 U.S.C. 8439. Legislation subsequent to the proposed rule added funds in Achieving a Better Life Experience (ABLE) program accounts as tax-favored savings accounts for

people with disabilities under IRC Section 529A. The FNS is adding ABLE programs as excludable resources.

On January 17, 2017, an Administrative Memorandum was released by FNS informing states that the U.S. Department of the Treasury established a new retirement savings account designed for small-dollar savers and employees who do not have access to a retirement savings plan through their employers, known as *myRA*. A *myRA* account is a Roth Individual Retirement Account (IRA) and is subject to section 408(a) of the IRC which is excluded as a resource in determining eligibility or benefits.

Program Impact

None. This provision codifies existing CalFresh policy regarding the exclusion or retirement accounts from resources. For additional implementation details regarding ABLE accounts refer to ACL 17-61 released on June 27, 2017 and tax preferred retirement accounts refer to ACIN I-28-09 released on April 7, 2009. Note that on July 28, 2017, the U.S. Treasury announced it was ending the *myRA* small business retirement plan program

Exclusion of Education Accounts from Resources
7 CFR Section 273.8(e)(20)

This provision excludes from resources all tax-preferred education savings accounts described in Sections 529 and 530 of the IRC. Section 529 of the IRC describes qualified tuition programs that allow a contributor to contribute funds or purchase tuition credits for qualified education expenses for a designated beneficiary. Section 530 of the IRC describes Coverdell Education Savings Accounts, which are trusts created to pay the education expenses of the designated beneficiary.

Program Impact

None. This provision codifies existing CalFresh policy regarding the exclusion of education accounts from resources. For additional implementation details refer to ACIN I-28-09 released on April 7, 2009.

If you have any questions regarding this ACL, please contact the CalFresh Policy Bureau at (916) 651-8047.

Sincerely,

Original Document Signed By:

TODD R. BLAND
Deputy Director
Family Engagement and Empowerment Division