

March 27, 2018

ALL COUNTY LETTER 18-22

TO: ALL COUNTY WELFARE DIRECTORS  
ALL CALFRESH PROGRAM SPECIALISTS  
ALL CALWORKs PROGRAM SPECIALISTS  
ALL COUNTY REFUGEE COORDINATORS  
ALL COUNTY IEVS COORDINATORS  
ALL COUNTY SPECIAL INVESTIGATIVE UNIT CHIEFS  
ALL COUNTY DISTRICT ATTORNEYS

SUBJECT: CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO  
KIDS (CalWORKs) AND CALFRESH: CRIMINAL PROSECUTION  
OF INTENTIONAL PROGRAM VIOLATION (IPV) TIMEFRAMES

REFERENCES: 7 CODE OF FEDERAL REGULATION (CFR) SECTION  
[272\(8\)\(c\)](#) AND [273.18\(d\)\(1\)](#); 45 CFR [205.56\(a\)](#) AND [233.20](#)  
[\(a\)\(13\)\(i\)\(E\)](#); [SENATE BILL \(SB\) 360](#); WELFARE AND  
INSTITUTIONS CODE (WIC) SECTIONS [10980](#), [11200](#) AND  
[18900](#); MANUAL POLICIES AND PROCEDURES (MPP)  
SECTIONS [20-006.421](#), [22-071](#), [22-072](#), [22-201.4](#), [22-305.45](#);  
AND ALL COUNTY LETTER (ACL) [17-41](#) AND [17-118](#)

The purpose of this ACL is to provide implementing instructions to County Welfare Departments (CWDs) regarding [Senate Bill \(SB\) 360](#), signed September 30, 2017 which amended portions of the [WIC Section 10980](#). These changes will take effect on all Income and Eligibility Verification System (IEVS) data matches received on or after January 1, 2018. [WIC Section 10980](#) limits the timeframe for pursuing criminal prosecution for CalWORKs Overpayments (OPs) and CalFresh Overissuances (OIs). This ACL also reminds CWDs of the requirement to timely process IEVS data matches and establish OP/OIs in both programs.

#### **Amended WIC Section 10980**

[WIC Section 10980](#) has been amended to exclude from criminal prosecution the portion of the OP/OI that includes the period of time when the CWD did not process the IEVS information timely. Specifically, the amended section of WIC 10980 stipulates that a person shall not be subject to criminal prosecution for an OP/OI of CalWORKs or

CalFresh benefits for any month in which the county human services agency was in receipt of any IEVS data match information indicating any potential for an OP/OI when:

1. The county human services agency has not processed the IEVS data match timely; and/or
2. Has not provided to the person a timely and adequate notice of action for the collection of the OP/OI.

### **Timely Processing of IEVS Data Matches**

The CWDs are reminded that [ACL 17-41](#) states that CWDs are required to review and compare the IEVS information against information in the case record provided by the recipient to determine whether it affects eligibility or benefit level. CWDs must base their determinations on the household's Income Reporting Threshold (IRT) and any other reporting requirements.

Furthermore, IEVS data match follow-up must include, at a minimum, the mailing of a client verification letter within 45 days of the CWD's receipt of the match, as described in [ACL 17-41](#).

The client cannot be subject to criminal prosecution for any OP/OI of benefits received any month following the 45<sup>th</sup> day if the CWD does not provide the client a:

1. Client verification letter by the 45<sup>th</sup> day from the receipt of an IEVS data match, showing a potential discrepancy, requesting the client confirm the information on the match and/or
2. Timely and adequate notice for establishment and collection of the OP/OI by the quarter after the quarter of the IEVS showing a potential discrepancy.

### **Establishment of OP/OIs in CalWORKs and CalFresh Programs**

The CWDs are also reminded of the requirement to establish the OP/OI by the quarter after the quarter in which the discrepancy was "Discovered/Identified" in accordance with [7 CFR 273.18 \(d\)\(1\)](#) for CalFresh and [45 CFR 233.20 \(a\)\(13\)\(i\)\(E\)](#) for CalWORKs. For reference, [ACL 17-41](#) states IEVS data match discrepancies are "Discovered/Identified" on the run date or the date in which the CWD received the match electronically or via hard copy, whichever is later.

### **OP/OIs Subject to Referral for Criminal Prosecution**

SB 360 prohibits criminal prosecution for the portion of the OP/OI which accrued due to untimely processing of IEVS and/or inadequate notice. This includes subsequent IEVS data matches showing the same unreported income. The criminal prosecution timeframes will apply to the first IEVS data match received in the CWD.

Attached are three examples of the changes to WIC 10980 illustrating timely/untimely processing and the portion(s) of OP/OI that may be referred for criminal prosecution.

### **Administrative Disqualification Hearings Process**

The CWDs are also reminded if the OP/OI amount falls below the criminal prosecution threshold after omitting the months in which the CWD was in receipt of the IEVS data match information, and the case is not filed for criminal prosecution, the county must start the Administrative Disqualification Hearing (ADH) process on the entire OP/OI period in accordance with [MPP Section 22-201.1](#) for CalFresh and MPP [Section 22-305.45](#) for CalWORKs. See [ACL 17-118](#) for more information on the requirement for an ADH when cases do not warrant a referral for criminal prosecution.

Additionally, if the client is found to have committed an IPV through the criminal prosecution process, the months in which the CWD was in receipt of the IEVS data match information would be considered an Inadvertent Household Error (IHE) and cannot be pursued through the ADH process.

Any questions regarding these changes may be emailed to [PIBPolicy@dss.ca.gov](mailto:PIBPolicy@dss.ca.gov).

Sincerely,

***Original Document Signed By:***

TODD R. BLAND  
Deputy Director  
Family Empowerment and Engagement Division

Attachment

# Timely IEVS Processing



**October 1, 2017**-County Welfare Department (CWD) received a Quarterly IEVS match showing a potential Overpayment/Overissuance (OP/OI) beginning in Q1 2017.

**November 14, 2017** -The CWD sends a timely client verification letter.

**March 31, 2018** -The CWD sends a timely Notice of Action (NOA) establishing the OP/OI by the Quarter after the Quarter.

Client may be subject to criminal prosecution for the entire OP/OI amount for benefits received from January 2017 to February 2018, if applicable.

# Untimely IEVS Processing

45 Days



**October 1, 2017** -County Welfare Department (CWD) received a Quarterly IEVS match showing a potential Overpayment/Overissuance (OP/OI) beginning in Q1 2017.

**November 14, 2017** -CWD does not send the Client Verification letter by the 45th day, so the client is not subject to criminal prosecution for any OP/OI of benefits received after **November 14, 2017**.

**March 31, 2018** -The CWD sends a timely Notice of Action (NOA) establishing the OP/OI by the Quarter after the Quarter,

- The client may be subject to criminal prosecution for the OP/OI of benefits received from January 2017 to November 2017, if applicable. If the client is found guilty through criminal prosecution for the OP/OI of benefits received from January 2017 to November 2017, those months would be processed as an Intentional Program Violation (IPV).
- The months of December 2017 to August 2018 would be processed as an Inadvertent Household Error (IHE) and cannot be pursued through the Administrative Disqualification Hearing (ADH) process.

If the OP/OI amount from January 2017 to November 2017 falls below the prosecution threshold, and the case was not filed for criminal prosecution, the county must start the ADH process on the entire OP/OI period in accordance with ACL 17-118.

# Untimely IEVS Processing

## Quarter after Quarter



**October 1, 2017** -County Welfare Department (CWD) received a Quarterly IEVS match showing a potential Overpayment/Overissuance(OP/OI) beginning in Q1 2017.

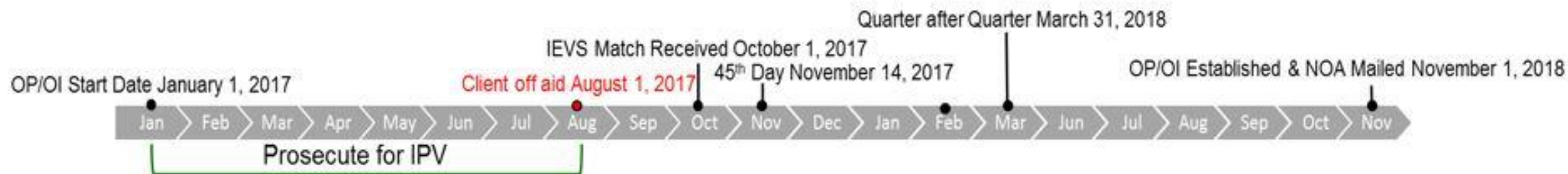
**November 14, 2017** -The CWD sends a timely client verification letter.

**March 31, 2018**-The CWD does not send the Notice of Action (NOA) establishing the OP/OI by the quarter after quarter, so the client is not subject to criminal prosecution for any OP/OI of benefits received any month following the 45th day, **November 14, 2017**.

- The client may be subject to criminal prosecution for the OP/OI of benefits received from January 2017 to November 2017, if applicable. If the client is found guilty through criminal prosecution for the OP/OI of benefits received from January 2017 to November 2017, those months would be processed as an Intentional Program Violation (IPV).
- The months of December 2017 to August 2018 would be processed as an Inadvertent Household Error (IHE) and cannot be pursued through the Administrative Disqualification Hearing (ADH) process.

If the OP/OI amount from January 2017 to November 2017 falls below the prosecution threshold, and the case was not filed for criminal prosecution, the county must start the ADH process on the entire OP/OI period in accordance with ACL 17-118.

# Client off Aid



**October 1, 2017** -County Welfare Department (CWD) received a Quarterly IEVS match on, for a closed case, showing a potential Overpayment/Overissuance (OP/OI) beginning Q1 2017.

**August 1, 2017** -The client went off aid.

There is no requirement to send client verification letter by **November 14, 2017** or establish the OP/OI and send Notice of Action (NOA) for collection by **March 31, 2018** since the case is closed and the client is no longer on aid. CWD should work the IEVS match as soon as administratively possible per ACL 17-41.

The client may be subject to criminal prosecution for the entire OP/OI period, January 2017 through August 2017, if applicable.