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STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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EDMUND G. BROWN JR.
GOVERNOR

July 16, 2018

ALL COUNTY LETTER (ACL) NO. 18-86

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY CALFRESH COORDINATORS
ALL CALFRESH PROGRAM SPECIALISTS
ALL CALWORKS PROGRAM SPECIALISTS
ALL CONSORTIUM PROJECT MANAGERS
ALL WELFARE INTERCEPT COORDINATORS
ALL COUNTY INCOME AND ELIGIBILITY VERIFICATION
SYSTEMS COORDINATORS

SUBJECT: IMPLEMENTATION OF THE REVISED TREASURY OFFSET
PROGRAM AND FRANCHISE TAX BOARD PRE-OFFSET
WARNING NOTICES; AND THE INTRODUCTION OF THE
NOTICE OF LANGUAGE SERVICES FORM

REFERENCE: [THE DIGITAL ACCOUNTABILITY AND TRANSPARENCY ACT
\(DATA ACT\) OF 2014](#), TREASURY OFFSET PROGRAM (TOP)
HANDBOOK COLLECTING SUPPLEMENTAL NUTRITION AND
ASSISTANCE PROGRAM RECIPIENT CLAIMS THROUGH THE
TREASURY OFFSET PROGRAM, REVISED AUGUST 2015 ([ALL
COUNTY LETTER \(ACL\) 16-108 ATTACHMENT](#))

The purpose of this All County Letter (ACL) is to provide County Welfare Departments (CWDs) copies of the updated Treasury Offset Program (TOP) and Franchise Tax Board (FTB) pre-offset warning letters. Also, the California Department of Social Services (CDSS) has instructed the Employment Development Department (EDD) to provide clients with the [Notice of Language Services \(GEN 1365\)](#) document for both the TOP and FTB pre-offset warning letters.

BACKGROUND

The California Department of Social Services (CDSS) agreement with FTB and the Food and Nutrition Service (FNS) TOP offset programs is to assist the CWDs in collecting delinquent debts for clients who are off aid. A pre-offset warning letter is a

required step in the tax intercept process which informs the debtor that their debt will be referred to TOP and/or FTB unless the client pays their debt or takes other action before 60 days from the date the letter was sent. Additional guidance on debtor's rights will be released under a separate ACL.

Per [California Government Code \(GOV\) Section 7295.4](#), state agencies must provide translation aids on all notices to non-English-speaking persons. For this reason, CDSS will begin attaching the [GEN 1365](#) form to all pre-offset notices sent to clients.

CHANGES TO TOP PRE-OFFSET WARNING NOTICE

The TOP pre-offset warning letter is updated to remove the reference to a state fair hearing on the outcome of the administrative review process, and the reference to [MPP Section 20-407](#) is removed.

The previous version of the TOP pre-offset notice cites [California Manual Policies and Procedures \(MPP\) Section 20-407](#), stating that clients may request a State Fair Hearing if they disagree with the results of a county administrative review of their TOP debt. The pre-offset notice has been changed to reflect guidance provided in the 2015 Collecting Supplemental Nutrition and Assistance Program (SNAP) Recipient Claims through the Treasury Offset Program handbook, attached to [ACL 16-108](#), stating clients are entitled to a review of the intended TOP collection action through a State (County) administrative review. CDSS is preparing amendments to the MPP to reflect this guidance

If the client does not agree with the findings of the county administrative review, they have the option to request a federal review with FNS within 30 days of the outcome of the county review.

See attachment #1 for updated TOP pre-offset notice.

CHANGES TO FTB PRE-OFFSET WARNING NOTICE

The FTB pre-offset notice had outdated language that CDSS has updated. All references to "Food Stamps" have been changed to "CalFresh".

See attachment #2 for updated FTB pre-offset notice.

ADDITION OF GEN 1365 NOTICE

The [GEN 1365](#) Notice of Language Services is now added to both the TOP and FTB pre-offset warning letters to satisfy the language requirement of [GOV Section 7295.4](#).

Implementation date for both notices to begin being distributed to clients with delinquent debts is July 1, 2018. If you have any questions regarding these changes, please

contact Fraud Offset Program Coordinator by phone at (916) 653-1824, or by email at taxintercept@dss.ca.gov.

Sincerely,

Original Document Signed By:

TODD R. BLAND
Deputy Director
Family Engagement and Empowerment Division

Attachments

FIRSTNAME LASTNAME
123 SOMETHING WAY APT 1
SAMPLES CA 99999-9999

CASE ID: 9999999999999999

The county agency above has records that show you are liable for an unpaid balance resulting from overissued CalFresh benefits (formerly known as Food Stamps). **BALANCE OF CLAIM DUE: \$48.00**

The county agency above has made required collection efforts, including mailing a demand letter notifying you about the claim, and your right to a fair hearing on the claim. If you do not pay your debt or take other action before 60 days from the date of this notice, the county agency will submit your debt to the United States Department of the Treasury (Treasury), Treasury Offset Program (TOP) for collection. This action is authorized by the Debt Collection Act of 1982, the Debt Collection Improvement Act of 1996, Federal Regulation 7 C.F.R. 273.18(n), and State Regulation Section 20-400. Once your debt is submitted to the TOP, the Treasury will reduce or withhold any of your eligible Federal payments by the amount of your debt. Federal payments eligible for offset include:

- Federal Income tax refunds, including any earned income tax credit;
- Up to 15% of your Federal Salary, including military salary;
- Up to 25% of your Federal retirement;
- Military retirement pay;
- Contractor/vendor payments; and/or
- Other Federal Payments

In addition, the Treasury is authorized to add penalties, fees, or other costs to your unpaid debt.

To avoid the TOP, you must contact the county agency listed above and do one of the following within 60 days of the date of this notice:

- **REPAY YOUR DEBT:** To repay your debt, send a check or money order, payable to the following county agency listed on this notice, for the full amount that you owe; or
- **AGREE TO A REPAYMENT PLAN:** If you are unable to pay your debt in full, you must contact the county agency listed on this notice, and agree to an acceptable repayment plan, and make payments required in the repayment plan; or

- **REQUEST AN ADMINISTRATIVE REVIEW:** If you believe that all, or part, of the debt is not past due, or legally enforceable, you must send evidence to support your position to the county agency listed on this notice. You will be informed of the county's decision about your debt. Some possible reasons why you may disagree with the debt are: (1) You never received CalFresh; (2) The amount shown as past due is incorrect; or (3) The county failed to follow state laws and CalFresh regulations when computing how much you owe; or
- **BANKRUPTCY:** If you filed for bankruptcy and the automatic bankruptcy stay is in effect, you are not subject to offset or other collection actions while the stay is in effect. Please notify the county agency listed on this notice by sending evidence concerning the bankruptcy

If you file a joint income tax return and your spouse was not a member of the CalFresh household at the time of the overissuance, you should contact the Internal Revenue Service (IRS) before filing your income tax return. The IRS will inform you of the steps to take to protect the share of the income tax refund which may be payable to your spouse, who may not be a delinquent debtor to the United States Government.

If you are a Federal employee, your current net disposable pay is subject to offset if you do not pay your debt or take other action described in this notice. Under the TOP, Treasury will deduct up to 15% of your disposable net pay beginning in the pay period that your debt is submitted for Federal Salary or wage offset and continuing every pay period until your debt plus fees, penalties, or other charges are paid in full. When you are identified through TOP as receiving a Federal salary or wage, you will be entitled to a hearing to dispute the existence or amount of the debt, or the amount of the payroll deduction. You will be provided information on where to file a written request for a hearing when you have been identified through TOP as receiving a Federal salary or wage. The timely filing of a petition for hearing will stay the commencement of offset proceedings for Federal salary and wage offset; however, it will not stop offset of other types of Federal payments. A final decision of the hearing will be issued no later than 60 days after the filing of a petition requesting the hearing. As a Federal employee, if you make or provide any knowingly false or frivolous statements, representation, or evidence, in addition to other penalties, you may be subject to disciplinary action. Once your debt is submitted to the TOP, the Treasury will reduce or withhold any of your eligible Federal payments by the amount of your debt and may refer your debt to private collection contractors or the Department of Justice. Treasury will deduct 15% of your Federal payments or benefits such as Social Security Retirement, Survivors and Disability benefits, Railroad Retirement (other than Tier 2) benefits, and Black Lung Part B benefits, to pay back the debt. You would be entitled to keep at least \$750 per month or \$9,000 per year of your Federal payments. If you receive Supplemental Security Income (SSI) disability benefits from the Social Security Administration, those benefits will not be withheld to pay back your debt.

If you make or provide any knowingly false or frivolous statements, representations or evidence, you may be liable for penalties under the False Claims Act (31 U.S.C. §§ 3729-3731), or other applicable statutes, and/or criminal penalties under 18 U.S.C. §§ 286, 287, 1001, and 1002, or other applicable statutes.

Before your debt is submitted to the TOP, you may (1) inspect and copy county records related to your debt, (2) request a review of the county's determination that you owe this debt, and (3) enter into an acceptable written repayment agreement.

FIRSTNAME LASTNAME
123 SOMETHING WAY APT 1
SAMPLES CA 99999-9999

CASE ID: 9999999999999999

County public assistance records show that you have been overpaid benefits, and are delinquent, as a result of either a cash aid overpayment and/or a CalFresh (formerly known as Food Stamps) overissuance. The amount(s) past due is:

Cash Aid \$0.00

CalFresh \$1,022.00

Because this amount has not been repaid, the Franchise Tax Board will keep all, or part, of your expected state income tax refund, unclaimed property disbursements, or lottery winnings (as authorized by the State Controller in California Government Code Section 12419.5, and in the California Department of Social Services Manual of Policies and Procedures - Section 20-400), to help pay off this past due amount. This action will apply even if you jointly file a tax return with a spouse who owes no past due benefits.

Your Right to an Administrative Review of this Action

If you, or your spouse (in the case of a joint tax refund), disagree with any of the actions to be taken, you may request a review before a County representative. You must request this review by contacting the County listed above. At this review you may be represented by an attorney, and you have the right to present evidence, and examine the documents used by the county to calculate the amount past due. To obtain a copy of the original Notice of Action which states the reasons and computation of the overpayment, contact the County (listed above).

Some possible reasons why you may disagree are: (1) You never received Cash Aid or CalFresh; (2) The amount shown as past due is incorrect; (3) The bankruptcy laws in effect at the time of your filing for bankruptcy discharged the amount shown as past due; and (4) The County failed to follow State laws, and Cash Aid or CalFresh regulations, when figuring how much you owe.

To allow the County time to make any necessary corrections to its records before the possible deduction from your state income tax refund, or other monies owed to you by the State of California, your request must be received by the county listed above within **30** days of the date of this notice. However, you may request a review of your case at any time during the year, as authorized by California Department of Social Services Manual of Policies and Procedures - Section 20-407.

You, or your spouse, may also petition the Superior Court to stop this action and determine if the past due amount(s) shown is correct. Please contact the County listed above in this notice for further information.