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ACTING DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**  
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GAVIN NEWSOM  
GOVERNOR

March 25, 2019

ALL-COUNTY LETTER NO. 19-22

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

SUBJECT: REVIEW AND STATE HEARING PROCESSES FOR FOOD AND  
NUTRITION SERVICES TREASURY OFFSET PROGRAM  
RELATED DEBTS

REFERENCE: [FOOD AND NUTRITION SERVICE, UNITED STATES  
DEPARTMENT OF AGRICULTURE REGULATIONS 7 CFR  
273.18\(n\); ATTACHMENT TOP HANDBOOK \(SECTION 6C, PAGE  
10\); CALIFORNIA DEPARTMENT OF SOCIAL SERVICES \(CDSS\)  
MANUAL OF POLICIES AND PROCEDURES SECTION 20-407,  
22-001, 22-049, 22-054, 22-065, AND 22-078; ALL COUNTY  
LETTER \(ACL\) 16-108](#)

The purpose of this letter is to provide County Welfare Departments (CWDs) with clarification regarding the California Department of Social Services (CDSS) [MPP Section 20-407](#). This regulation addresses the county administrative review and state hearing procedures on client's appeal rights for Treasury Offset Program (TOP) intercept related debts in the CalFresh program.

## Background

The Supplemental Nutrition and Assistance Program (SNAP) regulations require that Food and Nutrition Service (FNS) issue operating procedures for the collection of delinquent SNAP claims through the fully-automated, centralized offset program, operated by the Department of Treasury's Bureau of the Fiscal Service. Per [7 CFR Section 273.18\(n\)\(4\)\(i\)](#), CDSS must follow FNS and Treasury procedures when a claim is in TOP. Under FNS procedures, clients are entitled to a review of the intended TOP collection action. The client must submit a written request to the county for a review by

the date of the TOP pre-offset notice to avoid the debt being sent to TOP. 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.

CDSS' County Administrative Review Procedures found in [MPP Section 20-407](#) incorrectly state clients may request a state hearing if they disagree with the results of a county administrative review of their TOP related debt. The [MPP Section 20-407](#) will be revised to indicate the client's right to a FNS federal review if the client disagrees with the findings of the county administrative review.

### **County Administrative Review for TOP Related Debts**

Prior to a delinquent debt being submitted to TOP, a client has the right to request a county administrative review if they believe that all or part of the debt is not delinquent or legally enforceable. The client must submit a written request to the CWD for an administrative review within 60 days of receiving the TOP pre-offset notice. If the request is made within this period, the CWD must submit a Record Type 8 to "suspend" the debt in the Welfare Intercept System (WIS), per [ACL 16-108](#), to prevent the debt from being submitted to TOP. If a county administrative review request is received by the CWD beyond the 60-day timeframe, the CWD cannot suspend the debt in WIS while conducting the review. However, if through the county administrative review, the CWD determines that the debt is not eligible for TOP, the CWD must submit a Record Type 3 to "delete" the debt in WIS.

If requested, clients are entitled to inspect and copy the CWD's records related to their debts prior to an administrative review. The CWD must provide reasonable accommodations to clients unable to come to the county office location by mailing copies of records to them.

If a county review is requested, the review must, at a minimum, do the following:

- Confirm the notice was adequate and language compliant according to program rules and [MPP Section 22-001\(l\)](#);
- Verify that a demand letter/notice with a due date was issued;
- For those CalFresh overissuances resulting from Inadvertent Household Error and Administrative Error, ensure the amounts do not exceed the three-year collection period from the date of computation;
- Verify that the client was given the opportunity to appeal the claim and any state hearing decision;
- Verify that no responsible party to the claim is an active member of a CalFresh household;
- Verify the current balance of the claim and any collections or payment agreements;
- Verify the claim meets the criteria for referral to TOP; and
- Consider any evidence provided by the client.

The CWD must complete its review and issue a decision in writing within 30 days of receiving the client's request. If the CWD finds the claim is legally enforceable, the decision letter must contain sufficient detail to support the county's determination.

The decision must include:

- The reason the debt is past due and legally enforceable;
- A statement of the CWD's intention to refer the claim to TOP;
- A statement informing the client they may request an FNS review of the CWD's decision and the requirements for such a review; and
- Provide the following contact information to request an FNS review.

Western Region Office  
Attn: Claims, TOP, & State Program Officer  
90 Seventh St. Suite 10-100  
San Francisco, CA 94103

If the claim is found to be legally enforceable through the county administrative review process, the CWD must submit a Record Type 9 to "reactivate" the suspended debt in WIS as described in [ACL 16-108](#).

### **Federal Review of TOP Claims**

If the client requests an FNS review, the written request must be received by FNS within 30 days of the CWD's administrative review decision. The request must contain the client's name, social security number or debt number, and the client should provide evidence to indicate why the debt is not past due and legally enforceable.

A county administrative review must occur before an FNS review. If FNS receives a request for federal review and no county review has occurred, FNS will reject the request.

FNS reviews are conducted in the Regional office and the client is not entitled to a face-to-face review. Once FNS makes a determination on whether or not the claim is past due and legally enforceable, FNS will notify the CWD and client of their final decision in writing providing the reason(s) for the determination. If FNS finds the CWD correctly determined the claim is past due and legally enforceable, they will notify the CWD and client that all administrative appeal rights have been exhausted, and the claim is eligible for referral to TOP.

### **State Hearing Requests within 90 days**

Clients who are dissatisfied with a county action may request a state fair hearing no later than 90 days from the date of the adequate and language compliant written county notice of action (NOA) or initial demand letter informing the client of the CalFresh overissuance. If the client requests a state hearing within this timeframe, the debt is not

eligible for intercept and CWD must take action to avoid the debt from being submitted to TOP.

Guidance provided in [ACL 16-108](#) regarding suspension of debts in WIS upon request for state hearing has changed. Effective immediately, upon the request for a state hearing within 90 days from the date of the demand letter or NOA, the CWD must submit a Record Type 3 to “delete” the debt in WIS to stop the offset process.

If the CWD receives a notice of state hearing request from CDSS, the CWD must confirm the client is within the 90 days from the initial NOA prior to deleting the debt in WIS.

### **State hearing Requests Beyond 90 days**

FNS does not permit automatic deletion of a debt in WIS for hearing requests beyond 90 days from a timely and adequate demand letter or NOA.

Upon request for hearing made beyond 90 days but before 180 days of a CalFresh overissuance demand letter or NOA, counties may submit a request to the regional Presiding Administrative Law Judge to bifurcate a hearing challenging State Hearing jurisdiction to hear the merits of the claimant’s dispute in accordance with [MPP Section 22-049.531](#). The request for bifurcation should include a copy of the original demand letter or NOA, a language preference form (if applicable), and a WIS screen showing the date and address to which the TOP Pre-offset notice was sent along with a copy of this ACL. CWDs must email [taxintercept@dss.ca.gov](mailto:taxintercept@dss.ca.gov) to obtain a copy of the WIS screen.

If the Administrative Law Judge finds jurisdiction, the client is entitled to a state hearing on the debt and the claim then is ineligible for TOP. In these cases, the claim will only be deleted in WIS once jurisdiction is established. CWDs must submit a Record Type 3 to delete the debt in WIS.

If the Administrative Law Judge finds jurisdiction for a hearing requested *beyond* 180 days, the FNS regulations do not allow the TOP process to be stopped. If the funds have already been offset, the client will only be refunded if a state fair hearing decision finds the debt is either not delinquent, or not legally enforceable. If funds have not been offset, the CWD must submit a Record Type 3 to delete the debt in WIS.

### **Multiple Hearing Requests on the Same Underlying Debt**

Per [MPP Section 22-054.34](#), an appeal will be dismissed if the Administrative Law Judge determines the hearing request is identical to a prior hearing on the merits of the same issue with the same claimant. If the CWD finds the underlying overissuance has already been the subject of a state hearing on the merits, the CWD may request a bifurcated hearing pursuant to [MPP Section 22-049.531](#). If the duplicative hearing

request is made prior to 181 days, the CWD can only delete the debt in WIS if the Administrative Law Judge finds jurisdiction on the duplicate request.

If the duplicative hearing requested is *beyond* 180 days, the FNS regulations do not allow the TOP process to be stopped. If the funds have already been offset, the client will only be refunded if a state fair hearing decision concludes the debt is either not delinquent, or not legally enforceable. If funds have not been offset, the CWD must submit a Record Type 3 to delete the debt in WIS.

### **Compliance with State Hearing Decision**

If the state hearing decision concludes the debt, which had been removed from WIS, is delinquent and legally enforceable, the decision will provide the county with a new payment due date. If the state hearing decision does not provide the county with a new due date, the county must issue a new demand letter or NOA. If the client does not repay the debt or set up a repayment agreement with the CWD by the new due date, the CWD must re-establish the debt in WIS. The CWD must submit Record Type 1 to “establish” the debt in WIS, per [ACL 16-108](#), using the new delinquency date.

### **Rehearing**

If the CWD disagrees with the hearing decision, it may request a rehearing within 30 days of receipt of the decision, per [MPP Section 22-065](#). However, the CWD must still initiate compliance with the decision pending the rehearing review, per [MPP Section 22-078.11](#).

If the client disagrees with a hearing decision, they may request a rehearing within 30 days of receipt of the decision, per [MPP Section 22-065](#). If CDSS State Hearings Division grants a request for rehearing on a debt before it is 180 days delinquent, the CWD must submit a Record Type 8 to suspend the debt in WIS pending the outcome of the rehearing. If a rehearing decision concludes the debt is not past due or legally enforceable, the CWD must submit a Record Type 3 to delete the debt in WIS. If a rehearing decision concludes the debt is past due and legally enforceable, the CWD must submit Record Type 9 to reactivate the debt in WIS.

If the debt is beyond 180 days delinquent, the FNS regulations do not allow the TOP process to be stopped. If the funds have already been offset, the client will only be refunded if the rehearing decision finds the debt is either not delinquent, or not legally enforceable. If funds have not been offset, the CWD must submit a Record Type 3 to delete the debt in WIS.

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If there are any questions regarding the completion of this new process, please contact the CDSS Program Integrity TOP Coordinator at [taxintercept@dss.ca.gov](mailto:taxintercept@dss.ca.gov).

Sincerely,

***Original Document Signed By:***

TODD R. BLAND  
Assistant Director  
Automation, Integrity, and Client Initiatives Branch