

May 23, 2019

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

**EXECUTIVE SUMMARY**

**ALL COUNTY LETTER NO. 19-51**

This letter provides County Welfare Departments (CWDs) with guidance on CalFresh eligibility policies for individuals who are residents of institutions, including the specific roles and responsibilities of the United States Department of Agriculture, Food and Nutrition Service, the California Department of Social Services, CWDs, residential institutions, and CalFresh applicants and recipients. Additionally, this letter provides information on meal service providers.



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

May 23, 2019

ALL COUNTY LETTER (ACL) NO. 19-51

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

SUBJECT: CALFRESH ELIGIBILITY FOR RESIDENTS OF INSTITUTIONS

REFERENCES: [FEDERAL REGISTER \(FINAL RULE\): SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM \(SNAP\): ELIGIBILITY, CERTIFICATION, AND EMPLOYMENT AND TRAINING PROVISIONS OF THE FOOD, CONSERVATION AND ENERGY ACT OF 2008; TITLE 7 OF THE CODE OF FEDERAL REGULATIONS \(CFR\) §271.2; 7 CFR § 272.9; 7 CFR § 273.1; 7 CFR § 273.2\(n\)\(4\)\(D\); 7 CFR § 273.11\(e\) through \(g\); 7 CFR § 274.3\(b\) ; 7 CFR § 274.7\(g\); 7 CFR § 274.7\(i\); 7 CFR § 278.1\(a\) through \(g\); 7 CFR § 278.1\(r\); 7 CFR § 278.2\(a\) through \(d\); 7 CFR § 278.2\(g\); 7 CFR § 278.2\(l\); 7 CFR § 278.3\(a\); MANUAL OF POLICIES AND PROCEDURES \(MPP\) 63-102\(e\)\(1\); MPP 63-402.4, MPP 63-402.41, MPP 63-402.46, MPP 63-402.6, MPP 63-402.622, MPP 63-503.46, MPP 63-503.47, MPP 63-503.476, MPP 63-503.477, MPP 63-503.478, MPP 63-503.48, MPP 63-503.481, ASSEMBLY BILL 1811 \(CHAPTER 35, STATUTES OF 2018\), ALL COUNTY INFORMATIONAL NOTICE I-09-18, ALL COUNTY LETTER 18-90, FNS DRUG ADDICTION AND ALCOHOLIC TREATMENT AND REHABILITATION PROGRAMS MEMO \(MARCH 8, 2006\), FNS DRUG AND ALCOHOL TREATMENT CENTERS, GROUP LIVING ARRANGEMENTS, AND MEAL SERVICES PROVIDERS REGULATIONS CHART, AND SOBER LIVING HOMES IN CALIFORNIA: OPTIONS FOR STATE AND LOCAL REGULATION](#)

This letter provides County Welfare Departments (CWDs) with guidance on CalFresh eligibility policies for individuals who are residents of institutions, including the specific roles and responsibilities of the United States Department of Agriculture, Food and Nutrition Service (FNS), the California Department of Social Services (CDSS), CWDs, residential institutions, and CalFresh applicants and recipients. Additionally, this letter provides information on meal service providers.

## **Background**

[Assembly Bill 1811 \(Chapter 35, Statutes of 2018\)](#) implements the reversal of the CalFresh eligibility policy known as “cash-out.” Effective June 1, 2019, individuals receiving Supplemental Security Income and/or California State Supplementary Payment (SSI/SSP) benefits are eligible for CalFresh, provided all other eligibility criteria are satisfied. For more information on this policy change, reference [ACL No. 18-90](#) dated July 31, 2018.

Some SSI/SSP recipients may reside in an institution or may receive meals from a meal service provider. Depending on the type of institution, an SSI/SSP recipient may or may not be eligible for CalFresh. As well, special rules may apply to those SSI/SSP recipients using a meal service. As a result, the CDSS is issuing guidance regarding CalFresh eligibility for individuals who are residents of an institution or who utilize a meal service. While this letter was prompted by the expansion of CalFresh to SSI/SSP recipients, the guidance in this letter is not limited to SSI/SSP recipients.

The guidance in this letter reflects final rules released by FNS on February 19, 2019, that amend federal Supplemental Nutrition Assistance Program regulations related to drug addiction or alcoholic treatment and rehabilitation centers (DAA Treatment Centers) and group living arrangements (GLAs). The final rule was effective on April 22, 2019. The final rule will be incorporated into the CalFresh Manual of Policies and Procedures (MPP) as soon as administratively feasible.

## **Eligibility for Residents of Institutions**

Per [7 Code of Federal Regulations \(CFR\) § 273.1\(b\)\(7\)\(vi\)](#) and [MPP 63-402.4](#), a resident of an institution is an individual who is provided a majority of their meals – defined in federal regulation as over 50 percent of three meals daily – at the institution as part of the institution’s normal services. Generally, individuals who are residents of an institution are ineligible for CalFresh.

To be part of an institution’s “normal services”, meals do not need to be provided by the institution on a mandatory basis. An individual who voluntarily opts into receiving a majority of meals from an institution is also considered a resident of that institution for the purpose of determining CalFresh eligibility.

The following individuals must not be considered residents of an institution and may participate in CalFresh. These individuals must be treated as a separate household from others with whom they reside:

1. Individuals who are residents of federally subsidized housing for the elderly.
2. Individuals who reside at a DAA Treatment Center for regular participation in a drug or alcohol treatment and rehabilitation program.
3. Individuals who are disabled or blind and are residents of a GLA.
4. Individuals and their children who are temporarily residing in a shelter for battered persons.
5. Individuals who are residents of public or private-nonprofit shelters for homeless persons.

### **Drug Addiction or Alcoholic Treatment and Rehabilitation Centers**

Per [7 CFR § 273.11\(e\)\(1\)](#), a DAA Treatment Center is a residential drug addiction or alcoholic treatment and rehabilitation program. The program may be operated by a private, nonprofit organization or institution, or a publicly operated community mental health center. A DAA Treatment Center must be operating under Part B of Title 19 of the Public Health Service Act (42 United States Code 300x et seq.) or authorized by FNS as a retailer.

To be considered “operating under Part B of Title 19 of the Public Health Service Act”, the DAA Treatment Center must be certified by the State Title 19 Agency as one of the following:

1. Receiving funding under Part B of Title 19 of the Public Health Service Act;
2. Eligible to receive funding under Part B of Title 19 even if no funds are being received; or
3. Operating to further the purpose of Part B of Title 19, to provide treatment and rehabilitation of drug addicts and/or alcoholics.

Part B of Title 19 of the Public Health Service Act requirements vary from state to state.

The CWD must confirm that the DAA Treatment Center is operating under Part B of Title 19 of the Public Health Service Act as certified by the State Title 19 Agency or is authorized by FNS as a retailer. In California, the Title 19 Agency is the Department of Health Care Services (DHCS).

The CWD can confirm that a DAA Treatment Center is operating under Part B of Title 19 by referencing the list maintained on the DHCS website. The CWD can confirm that a DAA Treatment Center is an FNS authorized retailer by referencing the list on the CDSS website at the [CalFresh Resource Center Page](#).

A DAA Treatment Center cannot require residents to apply for CalFresh. Residents of a DAA Treatment Center must apply for CalFresh voluntarily. If a resident voluntarily applies for CalFresh, they must apply through an Authorized Representative (AR) who is employed by and designated by the DAA Treatment Center. The DAA Treatment Center employee designated for the purpose of applying must also act as the AR for certification purposes, meaning that the AR is responsible for notifying the CWD of changes in the household's circumstances that are required to be reported during the certification period. The CWD may also require DAA Treatment Center residents to use an AR employed and designated by the DAA Treatment for the purpose of receiving and using benefits.

Residents of a DAA Treatment Center must be certified as a one-person household unless their children are living with them at the DAA Treatment Center, in which case their children must be included in the household.

The CWD must certify DAA Treatment Center residents using the same rules that apply to all other households, including, but not limited to, the same rights to notices of adverse actions and state administrative hearings.

The DAA Treatment Center must provide the CWD with a list of currently participating residents that includes a statement signed by a responsible DAA Treatment Center official attesting to the validity of the list. The CWD must require submission of the list on a monthly or semi-monthly basis. In addition, the CWD must conduct periodic random on-site visits to the DAA Treatment Center to assure the accuracy of the list and that the CWD's records are consistent and up to date.

A DAA Treatment Center may redeem benefits in several ways, including use of individual household Electronic Benefit Transfer (EBT) cards at authorized stores, authorization of the DAA Treatment Center as a retailer with EBT access via a Point of Sale (POS) device, or DAA Treatment Center use of an EBT card that has been loaded with an aggregate of individual household benefits. The CWD must ensure that the selected method prohibits the DAA Treatment Center from obtaining more than one-half of the household's allotment prior to the 16<sup>th</sup> of the month or permits the return of benefits to the household's EBT account through a refund, transfer, or other means.

Per [7 CFR § 273.11\(e\)\(6\)](#), when a household leaves the DAA Treatment Center, the DAA Treatment Center must perform the following:

1. Notify the CWD by sending a completed change report form to the CWD with the household's change in address, new address if available, and a statement that the DAA Treatment Center and employee are no longer the household's AR. Also, the DAA Treatment Center must provide the household with a change

report form as soon as it has knowledge that the household plans to leave the facility and must advise the household to return the change report form to the CWD within 10 days of any change in the household's circumstances that the household is required to report. After the household leaves the DAA Treatment Center, the center can no longer act as the household's AR for certification purposes, obtaining benefits, or using benefits.

2. Provide the household with its EBT card, if it was in the possession of the DAA Treatment Center. The DAA Treatment Center must return to the CWD any EBT cards not provided to departing households by the end of each month in which the households left the DAA Treatment Center.
3. Return household benefits:
  - a. If no benefits have been spent on behalf of an individual household, the DAA Treatment Center must return the full value of any benefits already debited from the household's current monthly allotment back on to the household's EBT account at the time the household leaves the DAA Treatment Center.
  - b. If benefits have already been debited from the EBT account and any portion spent on behalf of an individual household, the following procedures must be followed:
    - i. If the household leaves prior to the 16<sup>th</sup> day of the month, the DAA Treatment Center must ensure that the household has one half of its monthly allotment remaining on its EBT account.
    - ii. If the household leaves on or after the 16<sup>th</sup> day of the month, the CWD must require the DAA Treatment Center to give the household a portion of its allotment back. If the DAA Treatment Center is authorized as a retailer, the CWD may require the DAA Treatment Center to provide a refund for that amount back to the EBT account at the time the household leaves. If the DAA Treatment Center has an aggregate EBT card, the CWD must transfer a portion of the household's monthly allotment from the DAA Treatment Center's EBT account back to the household's EBT account as soon as possible.

In either case, the household, not the DAA Treatment Center, must be allowed to have sole access to any benefits remaining in the household's EBT account at the time the household leaves the DAA Treatment Center.

If the household has already left the DAA Treatment Center and, as a result, the DAA Treatment Center is unable to return the benefits in accordance with the above, the DAA Treatment Center must advise the CWD and the CWD

must return the benefits. These procedures are applicable at any time during the month.

Per [7 CFR § 273.11\(e\)\(7\)](#) and [MPP 63-503.477](#), the DAA Treatment Center must be held responsible for any misrepresentation of facts or intentional program violation (IPV) which it knowingly commits in the certification of residents. As the AR, the individual employed and designated by the DAA Treatment Center must be knowledgeable about household circumstances and should carefully review those circumstances with residents prior to applying on their behalf. The DAA Treatment Center is strictly liable for all losses or misuse of benefits and/or EBT cards held on behalf of a resident household and for all overissuances which occur while the household is a resident of the DAA Treatment Center. The resident recipient shall be held harmless for these types of overissuances.

Per [7 CFR § 273.11\(e\)\(8\)](#) and [MPP 63-503.478](#), if authorized by FNS as a retailer, the DAA Treatment Center may be penalized or disqualified if it is determined administratively or judicially that benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. The CWD must promptly notify FNS and CDSS when it has reason to believe that a DAA Treatment Center is misusing benefits and/or EBT cards in its possession. However, the CWD must not take action prior to FNS action against the organization or institution. The CWD must establish a claim for any overissuance of benefits held on behalf of resident recipients if any overissuances are discovered during an investigation or hearing procedure for redemption violations.

If FNS disqualifies a DAA Treatment Center as an authorized food retailer, the CWD must suspend the DAA Treatment Center's AR status for the same period. Residents of the DAA Treatment Center must receive adequate notice explaining the termination and when it will become effective.

## **Sober Living Environments**

According to an October 2016 report entitled "[Sober Living Homes in California: Options for State and Local Regulation](#)" by the California Research Bureau, Sober Living Environments (SLE) are residential living arrangements for persons transitioning from drug or alcohol rehabilitation or treatment centers.

SLEs are not defined in the CFR or MPP and there is no state agency in California that licenses or provides certification of SLEs.

The CDSS has received questions regarding authorization of SLEs as DAA Treatment Centers. While licensing is not required for a facility to be certified to receive CalFresh as a DAA Treatment Center, as previously mentioned, the facility must be certified by the state Title 19 Agency that it is "operating under Part B of Title 19 of the Public Health Service Act" or be an authorized FNS retailer. No California state agency

provides such certification of SLEs. Therefore, SLEs cannot be considered DAA Treatment Centers for CalFresh purposes.

An SLE may be authorized by FNS as a retailer.

### **Group Living Arrangements**

Per [7 CFR § 271.2](#), a GLA is a public or private-nonprofit residential home for disabled or blind individuals that serves no more than 16 residents. Additionally, a GLA must be certified by the CDSS, under regulations issued under [section 1616\(e\) of the Social Security Act](#) or comparable standards. To be eligible for CalFresh, a resident of a GLA must be disabled or blind as defined by CalFresh ([MPP 63-102\(e\)\(1\)](#)).

Residents of private for-profit GLAs are ineligible to receive CalFresh benefits.

The CWD must confirm with CDSS that the GLA is certified by the CDSS to be operating under section 1616(e) of the Social Security Act or comparable standards or authorized by FNS as a retailer. The CWD can confirm that a GLA is certified by CDSS or an FNS authorized retailer by referencing either the list of current CDSS-certified GLAs or the list of FNS authorized retailers on the CDSS website at the [CalFresh Resource Center Page](#).

Per [7 CFR § 273.11\(f\)](#) and [MPP 63-503.481](#), disabled or blind residents of a GLA may apply for CalFresh on their own behalf or through an AR. The AR may be an AR of their choice or an AR employed and designated by the GLA. The GLA must determine if a resident may apply on his or her own behalf based on the resident's physical and mental ability to handle his or her own affairs. Some residents of a GLA may apply on their own behalf, while other residents of the same GLA may apply using an AR.

If a GLA resident applies on their own behalf or through an AR of their choice, the household size must be determined based on CalFresh purchase and prepare rules. If a GLA resident applies through the use of an AR employed and designated by the GLA, their eligibility must be determined as a one-person household.

The CWD must certify GLA residents who apply on their own behalf or through an AR using the same rules that apply to all other households, including but not limited to, the same rights to notices of adverse action and state administrative hearings.

As is currently the case, if a resident applies for CalFresh on their own behalf the household is responsible for completing required reports during the certification period. If a resident applies for CalFresh through an AR, the AR must notify the CWD of changes in the household's circumstances that are required to be reported during the certification period.

Note that even if a resident applies for CalFresh on their own behalf, an employee designated by the GLA may act as the household's AR for purposes of receiving and using benefits. Benefits can be used to purchase meals (to be served either

communally or individually) for CalFresh recipients residing at the GLA. The resident may also use their EBT card to purchase and prepare food for their own consumption.

If an employee designated by the GLA is acting as an AR for the purpose of receiving and using benefits, the GLA may purchase and prepare food to be consumed by CalFresh recipients on a group basis if residents normally obtain their meals at a central location or if meals are prepared at a central location for delivery to individual residents. If personalized meals are prepared and paid for with CalFresh, the GLA must ensure that the resident's CalFresh benefits are used only for meals intended for that resident.

The GLA must provide the CWD with a list of currently participating residents that includes a statement signed by a responsible GLA official attesting to the validity of the list. The CWD must require submission of the list on a periodic basis. In addition, the CWD must conduct periodic random on-site visits to the GLA to assure the accuracy of the list and that the CWD's records are consistent and up to date.

When a household leaves the GLA, the GLA must return the EBT card (if applicable) to the household. The household, not the GLA, must have sole access to any benefits remaining in the household's EBT account at the time of the household's departure from the GLA. CWDs must ensure that procedures permit the GLA to return unused benefits to the household through a refund, transfer, or other means.

If at the time a household leaves the GLA, no benefits have been spent on behalf of the household, the GLA must return the full value of any benefits already debited from the household's current monthly allotment back into the household's EBT account as soon as possible. These procedures apply any time during the month.

However, if the GLA has already debited benefits and spent any portion of them on behalf of an individual household, the GLA must perform the following:

1. If the household leaves the GLA prior to the 16<sup>th</sup> day of the month, the GLA must provide the household with its EBT card (if applicable) and one-half of its monthly benefit allotment as soon as possible. Where a group of residents has been certified as one household and a member of the household leaves the GLA:
  - a. The GLA must return a pro rata share of one half of the household's benefit allotment to the EBT account as soon as possible and notify the CWD that the individual is entitled to that pro rata share; and
  - b. The CWD must create a new EBT account for the individual, issue a new EBT card, and transfer the pro rata share from the original household's EBT account to the departing individual's EBT account as soon as possible. The GLA must instruct the individual on how to obtain the new EBT card based on the CWD EBT procedures.
2. If the household or an individual member of the group household leaves on or after the 16<sup>th</sup> day of the month and benefits have already been debited and used,

the household or individual does not receive any benefits for the remainder of that month.

3. The GLA must return to the CWD any EBT cards not provided to departing residents at the end of each month. Also, if the household has already left the GLA and as a result, the GLA is unable to perform the refund or transfer as previously mentioned, the GLA must advise the CWD, and the CWD must initiate the return or transfer instead.
4. Once the resident leaves, the GLA must no longer act as the household's AR (if applicable) for certification purposes, obtaining benefits, or using benefits. If possible, the GLA must provide the household with a change report form and advise the household to return the change report form to the CWD within 10 days of any change in the household's circumstances that the household is required to report.

As with DAA Treatment Centers, the GLA will be responsible for any misrepresentation of facts or IPV which it knowingly commits in the certification of GLA residents. As the AR, the individual employed and designated by the GLA must be knowledgeable about household circumstances and should carefully review those circumstances with residents prior to applying on their behalf. The GLA is strictly liable for all losses or misuse of benefits and/or EBT cards held on behalf of resident households and for all overissuances which occur while the households are residents of the GLA. The resident recipient shall be held harmless for these types of overissuances.

If authorized by FNS as a retailer, the GLA may be penalized or disqualified if it is determined administratively or judicially that benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. The CWD must promptly notify FNS and CDSS when it has reason to believe that a GLA is misusing benefits and/or EBT cards in its possession. However, the CWD must take no action prior to FNS action against the organization or institution. The CWD must establish a claim for overissuances of benefits held on behalf of resident recipients if any overissuances are discovered during an investigation or hearing procedure for redemption violations.

If FNS disqualifies a GLA as an authorized food retailer, the CWD must suspend the GLA's AR status for the same time period. Residents applying on their own behalf or through an AR of their choice will still be able to participate if otherwise eligible. Residents who applied through an AR employed and designated by the GLA must either designate a new AR or act on their own behalf.

### **Shelter for Battered Persons**

A shelter for battered persons, commonly referred to as a shelter for victims of domestic violence, is a public or private-nonprofit residential facility that serves battered adults and children. [All County Information Notice No. I-09-18](#) affirms that the definition of

“persons fleeing domestic violence” applies to all victims of domestic violence, regardless of gender identity or sexual orientation. For more information about how CalFresh applications are processed for victims of domestic violence, reference [ACL No. 17-30](#) dated April 17, 2017.

For this purpose, the shelter must be a residential facility that serves meals or provides food to its residents. If such a facility serves other individuals, a portion of the facility must be dedicated on a long-term basis to serving only battered persons.

Prior to determining CalFresh eligibility for any individual as a shelter resident, the CWD must confirm that the shelter is a public or private-nonprofit residential facility that serves battered individuals or that the shelter is authorized by FNS to redeem benefits at wholesalers.

A shelter resident may apply on their own behalf or apply using an AR. The AR may be an AR of their choice or may be an AR employed and designated by the shelter. If a shelter resident applies on their own behalf, benefits may be provided to the facility to either (1) purchase food for meals served communally or individually to eligible residents or (2) used by the individual to purchase and prepare food for their own consumption or prepared and served by the shelter.

Per [7 CFR § 274.3\(b\)](#), the FNS can equip shelters with an EBT POS device so that CalFresh benefits can be deposited directly into their financial institution accounts. In instances where a shelter is equipped with a POS, FNS authorization is required for routing and reconciling facility POS transactions.

CWDs are encouraged to maintain a list of local shelters that meet the above requirements in order to facilitate the prompt eligibility determination of shelter residents.

### **Shelter for Homeless Persons**

A shelter for homeless persons is a public or private-nonprofit establishment that temporarily houses homeless persons.

Prior to determining CalFresh eligibility for any individual as a shelter resident, the CWD must confirm that the shelter is a public or private-nonprofit facility that temporarily houses homeless persons.

Note that a shelter for the homeless may also be considered a homeless meal provider pursuant to [7 CFR § 278.1\(r\)](#), which is a public or private-nonprofit establishment (e.g. soup kitchen, temporary shelter) that feeds homeless people. Meals served must include food purchased by the homeless meal provider. To accept CalFresh benefits, homeless meal providers must be authorized by FNS. Those serving meals consisting wholly of donated foods are not eligible for FNS authorization.

Per [CFR § 273.2\(n\)\(4\)\(D\)](#), meal providers for the homeless, including those that are also shelters for the homeless, may not designate an employee to act as a CalFresh AR.

Per [7 CFR § 271.2](#) and [274.7\(g\)\(4\)](#), in order to be eligible to use CalFresh benefits at a homeless meal provider, individuals must meet the definition of homeless as follows:

An individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

1. a supervised shelter designed to provide temporary accommodations;
2. a halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized;
3. temporary accommodation in the residence of another individual for no more than 90 days; or
4. a place not designated for, or ordinarily used, as a regular sleeping accommodation for human beings.

The homeless meal provider may only request voluntary use of CalFresh benefits from homeless recipients to pay for meals and if requested, cannot ask recipients to pay more than the average cost of meals at the shelter. Voluntary payments in excess of such costs may be accepted by the meal provider.

If non-CalFresh recipient clients have the option to eat free or make a monetary donation, the same option must be made available to CalFresh recipients.

Per [7 CFR § 274.3\(b\)](#), the FNS can equip homeless shelters that are meal service providers with an EBT POS device so that CalFresh benefits can be deposited directly into the provider's financial institution accounts. Benefits redeemed by the client would transfer from the client's EBT account to the facility's financial institution account.

### **FNS Authorized Retailers**

A list of current FNS authorized retailers that are California DAA Treatment Centers and GLAs is located on the CDSS website on the [CalFresh Resource Center Page](#).

For CalFresh program questions regarding this ACL, please contact the CalFresh Policy Bureau at (916) 651-8047.

Sincerely,

### ***Original Document Signed By:***

KIM JOHNSON  
Deputy Director  
Family Engagement and Empowerment Division