

03-06-2020

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 20-12

The purpose of this All County Letter (ACL) is to provide guidance to County Welfare Departments (CWDs) on how to treat a client who is alleged or found to have committed an Intentional Program Violation (IPV), or who is prosecuted for committing fraud in the CalFresh and/or California Work Opportunity and Responsibility for Kids (CalWORKs) programs.



KIM JOHNSON
DIRECTOR

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

03-06-2020

ALL COUNTY LETTER (ACL) 20-12

TO: ALL COUNTY WELFARE DIRECTORS
ALL CALFRESH PROGRAM SPECIALISTS
ALL CALWORKS PROGRAM SPECIALISTS
ALL CONSORTIA PROJECT MANAGERS
ALL QUALITY CONTROL PROGRAM COORDINATORS
ALL SPECIAL INVESTIGATIVE UNIT CHIEFS
ALL COUNTY HEARING SPECIALISTS
ALL ADMINISTRATIVE LAW JUDGES

SUBJECT: CRIMINAL PROSECUTION FOR WELFARE FRAUD AND THE
IMPOSITION OF AN INTENTIONAL PROGRAM VIOLATION

REFERENCE: [TITLE 7, CODE OF FEDERAL REGULATIONS \(CFR\) SECTION 273.16; WELFARE AND INSTITUTIONS CODE \(WIC\) SECTIONS 10980 AND WIC 17015; MANUAL OF POLICIES AND PROCEDURES \(MPP\) SECTIONS 20-007.3, MPP 20-201.1, MPP 22-201.1, MPP 20-300.1, MPP 20-300.36, MPP 22-305.45, MPP 20-351, MPP 20-352.214, MPP 20-352.412, MPP 20-353 AND MPP 20-354.3; ACL 17-118; ACL 18-22; AND ACL 18-105](#)

The purpose of this All County Letter (ACL) is to provide guidance to County Welfare Departments (CWD) on how to treat a client who is alleged, prosecuted for, and found to have committed an Intentional Program Violation (IPV) in the CalFresh and/or California Work Opportunity and Responsibility to Kids (CalWORKs) programs.

Criminal Prosecution for Welfare Fraud in the CalFresh and CalWORKs Programs

CWDs are responsible for investigating any case of alleged IPV and ensuring that appropriate cases are acted upon either through referral to a prosecuting authority of appropriate jurisdiction or for an administrative disqualification hearing (ADH). At the completion of an investigation, for those cases in which it appears clear and convincing evidence exists to substantiate the allegation of an IPV, Special Investigative Units

(SIU) are responsible for submitting a request for a criminal complaint to the prosecuting authority.

As a reminder, for cases in which the referral for criminal prosecution is declined by the prosecuting authority and documentary evidence indicates that an administrative disqualification is appropriate, CWDs are required to refer the case for ADH as described in ACL 17-118.

If a referral for criminal prosecution leads to a conviction resulting from acts that constitute an IPV under CalWORKs and/or CalFresh program rules, the client has committed an IPV. Applicable crimes are not limited to violations of Welfare and Institutions Code (WIC) Section 10980 and may include, but are not limited to: welfare fraud, trafficking, perjury, forgery, and theft, as indicated by MPP § 20-201. The CWD must impose an IPV disqualification in accordance with MPP § 20-353 for CalWORKs and MPP § 20-300.3 for CalFresh, unless it is contrary to the court order, and regardless of the client's plea.

Regulations will be updated to reflect this guidance.

Administrative Disqualification through a Hearing or signed Disqualification Consent Agreement (DCA)

After an individual has been found to have committed an IPV by a court, or signed a DCA, the CWD is required to impose the appropriate disqualification per MPP § 20-300 for CalFresh and MPP § 20-353 for CalWORKs.

Prior to the disqualification action, the CWD shall send a Notice of Administrative Disqualification to the individual. The notice must inform the individual of the decision, the reason for the decision, and the date the disqualification will take effect. If the individual is not eligible for aid in the CalWORKs Program at the time the disqualification period is to begin, the notice must inform the individual the period of disqualification will be deferred until the individual reapplies and is determined to be eligible for benefits. If the individual is not eligible for aid in the CalFresh Program at the time the disqualification period is to begin, the period of disqualification must start as if the individual was in fact eligible.

Once proper disqualification action is taken against an individual, the CWD must enter the IPV record into the CDSS IPV Online system, as outlined in ACL 18-105 within 30 days from the date the IPV is established.

Disqualification Consent Agreement procedures

The CWD must have the option of allowing accused individuals to sign DCAs for cases of deferred adjudication. The term deferred adjudication applies to the cases in which the accused individual has met the terms of a court order, or cases which are not

prosecuted due to the accused individual having met the terms of an agreement with the prosecuting authority.

The accused individual may sign the DCA without admitting the facts as presented are correct. However, by signing the agreement they are accepting the voluntary disqualification and penalty that applies to the case, which must be outlined on the DCA.

If the household member signed the DCA, the period of disqualification must begin within 45 days of the date that the DCA was signed, unless contrary to a court order.

Court-Ordered Restitution

When a court decision finds that a client has committed an IPV, the court may order restitution. If the court ordered restitution does not total the amount of the overpayment (OP) or overissuance (OI), the CWD may recoup the remaining balance via a repayment agreement. However, since the amount of restitution for the IPV determination has been set by the court, the CWD must classify the remaining OP/OI balance as an Inadvertent Household Error or client error. If the court does not order restitution for an IPV determination, the CWD must classify the full amount of the OP/OI as an IPV.

Any questions regarding these changes may be emailed to PIBPolicyUnit@dss.ca.gov

Sincerely,

Original Document Signed By:

NATASHA NICOLAI
Deputy Director, Chief Data Strategist
Research, Automation, and Data Division