

September 29, 2021

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

**EXECUTIVE SUMMARY**

**ALL COUNTY LETTER NO. 21-109**

The purpose of this All County Letter is to provide County Welfare Departments with guidance regarding the implementation of the new 24-month overpayment/overissuance establishment and calculation timeframe policy for the California Work Opportunity and Responsibility to Kids (CalWORKs) and CalFresh programs.



**KIM JOHNSON**  
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**  
744 P Street • Sacramento, CA 95814 • [www.cdss.ca.gov](http://www.cdss.ca.gov)



**GAVIN NEWSOM**  
GOVERNOR

September 29, 2021

ALL COUNTY LETTER NO. 21-109

TO: ALL COUNTY WELFARE DIRECTORS  
ALL CALWORKS PROGRAM SPECIALISTS  
ALL CALFRESH PROGRAM SPECIALISTS  
ALL CONSORTIA PROGRAM REPRESENTATIVES  
ALL COUNTY SPECIAL INVESTIGATIVE UNIT CHIEFS  
ALL COUNTY IEVS COORDINATORS  
ALL COUNTY HEARING SPECIALISTS  
ALL ADMINISTRATIVE LAW JUDGES

SUBJECT: IMPLEMENTATION OF THE TWO-YEAR  
OVERPAYMENT/OVERISSUANCE ESTABLISHMENT AND  
CALCULATION TIMEFRAME FOR THE CALIFORNIA WORK  
OPPORTUNITY AND RESPONSIBILITY TO KIDS (CALWORKS)  
AND CALFRESH PROGRAMS

REFERENCE: [ASSEMBLY BILL \(AB\) 135](#); WELFARE AND INSTITUTIONS CODE  
(WIC) SECTIONS [11004](#), [11004.1](#), AND [18927.1](#); MANUAL OF  
POLICIES AND PROCEDURES (MPP) SECTIONS [20-004.1](#), [22-071](#),  
[44-350.15](#), [44-350.16](#), [44-352.4](#); [63-801.311\(b\)](#); [63-80.3111\(b\)](#); AND  
[69-212](#); ALL COUNTY LETTER (ACL) [15-95](#); [18-99](#); [19-102](#); ALL  
COUNTY INFORMATION NOTICE [\(ACIN\) 1-14-21](#)

Assembly Bill [\(AB\) 135 \(Chapter 85, Statutes of 2021\)](#), signed by the Governor on July 16, 2021, added sections [11004](#) and [18927.1](#) to the Welfare and Institutions Code (WIC). These sections will limit the establishment and calculation timeframes to 24 months for nonfraudulent overpayments/overissuances (OPs/OIs) of CalWORKs and CalFresh benefits, respectively.

### **UPCOMING CHANGE OF POLICY FOR CALWORKS AND CALFRESH**

Current policy for CalFresh OIs caused by Inadvertent Household Errors (IHEs) and Administrative Errors (AEs) limits both the establishment and the calculation of such claims to a three-year timeframe. This alignment in establishment and calculation timeframes resulted from the settlement in the lawsuit of Brown and Espinosa-Tapia v. Lightbourne. For more information about this policy, please refer to [ACL 18-99](#).

Effective July 1, 2022, or when the Statewide Automated Welfare System (SAWS) can perform the automation necessary for implementation, whichever is later, County Welfare Departments (CWDs) may only establish a CalWORKs/CalFresh nonfraudulent OP/OI if all or a portion of the OP/OI occurred within the 24 months immediately prior to the date of discovery. The date of discovery is the date the CWD determined by computation that an OP/OI has occurred. The OP/OI claim will be considered established as of the date of the initial demand letter or written notification.

When a valid OP/OI is established, any overpaid or overissued benefits that were paid or issued more than 24 months prior to the date of discovery must not be included when calculating the OP/OI claim.

For example, the CWD discovered in July 2022 that the assistance unit (AU)/household was overpaid/overissued CalWORKs/CalFresh benefits starting in June 2019 through May 2022. The CWD established the OP/OI claim in the same month. In this scenario, the CWD would only calculate an OP/OI for August 2020 through May 2022 as those months fall within the 24-month period from August 2020 through July 2022, when the county discovered the OP/OI. The OPs/OIs from June 2019 through July 2020 fall beyond the 24-month timeframe and will not be included when the OP/OI is calculated.

This new policy will be applied prospectively. Claims established prior to the implementation of this new policy must not be recalculated, except for OP/OI claims that have been later determined to be fraudulent.

## **FRAUDULENT CALWORKS/CALFRESH OVERPAYMENT/OVERISSUANCE**

The new 24-month timeframe for establishing and collecting OPs/OIs will not apply to fraudulent OPs/OIs. A fraudulent OP/OI is classified as an Intentional Program Violation (IPV) claim. For an already established nonfraudulent OP/OI claim that has been later determined to be fraudulent, the CWD must reclassify the nonfraudulent OP/OI claim(s) as an IPV and may include OP/OI months beyond the 24-month limit. When this occurs, a new notice must be issued pursuant to [MPP 22-071](#).

CWDs are reminded an IPV can only result from an administrative disqualification hearing (ADH) finding that fraud has occurred, a signed administrative disqualification hearing waiver, criminal prosecution, or a signed disqualification consent agreement.

Detailed guidance regarding the reclassification of nonfraudulent OP/OI claims to fraudulent OP/OI claims beyond the 24-month period will be released in a subsequent county letter.

## **CASE NARRATION**

Case narration is essential when establishing and calculating OPs/OIs. CDSS highly recommends including the date of discovery in the case narration for the case reviewers to

more easily determine that the established OP/OI claim follows the 24-month establishment and calculation policy.

### **RCA, ECA, AND TCVAP ADMINISTRATION**

The changes to the CalWORKs overpayment process pursuant to [AB 135](#), also apply to the Refugee Cash Assistance (RCA), Entrant Cash Assistance (ECA), and Trafficking and Crime Victims Assistance Programs (TCVAP) per [MPP section 69-212](#). For questions regarding these programs, please contact the CDSS Refugee Programs Bureau at (916) 654-4356.

If you have questions regarding the treatment of fraudulent claims, please contact the Data Integrity and Stewardship Bureau at [PIBpolicyunit@dss.ca.gov](mailto:PIBpolicyunit@dss.ca.gov).

If you have CalWORKs or CalFresh questions or need additional guidance regarding the information in this letter, please contact the CalWORKs Early Engagement and Eligibility Bureau at (916) 654-1322 or the CalFresh Policy and Employment Bureau at [CalFreshPolicy@dss.ca.gov](mailto:CalFreshPolicy@dss.ca.gov).

Sincerely,

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

JENNIFER HERNANDEZ  
Deputy Director  
Family Engagement and Empowerment Division