

September 30, 2021

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

**EXECUTIVE SUMMARY**

**ALL COUNTY LETTER NO. 21-118**

The purpose of this All County Letter is to provide County Welfare Departments (CWDs) with guidance regarding the new CalFresh overissuance compromise policy for households with elderly and/or disabled members. The new compromise policy will be effective upon completion of automation in the Statewide Automated Welfare System.



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**DEPARTMENT OF SOCIAL SERVICES**  
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GAVIN NEWSOM  
GOVERNOR

September 30, 2021

ALL COUNTY LETTER NO. 21-118

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

SUBJECT: SENATE BILL 490: CALFRESH OVERISSUANCE COMPROMISE  
POLICY FOR HOUSEHOLDS WITH ELDERLY AND/OR  
DISABLED MEMBERS

REFERENCE: [ASSEMBLY BILL 1811](#); [SENATE BILL 490](#); [7 CODE OF FEDERAL REGULATIONS \(CFR\) SECTION 273.18\(e\)\(7\)](#); [7 CFR 271.2](#); [SECTION 18927 OF THE WELFARE AND INSTITUTIONS CODE \(WIC\)](#); [TITLE XVI OF THE SOCIAL SECURITY ACT](#); [MANUAL OF POLICIES AND PROCEDURES SECTION 63-801.11](#); [ALL COUNTY LETTER \(ACL\) 18-90](#)

The purpose of this All County Letter (ACL) is to provide County Welfare Departments (CWDs) with guidance regarding the new CalFresh overissuance (OI) compromise policy for households with elderly and/or disabled members. The new compromise policy will be effective upon completion of automation in the Statewide Automated Welfare System (SAWS).

This letter provides policy guidance to inform automation. The current anticipated completion date for automation and policy implementation is the Fall of 2022. **When the final automation timeline is confirmed, the California Department of Social Services (CDSS) will issue final guidance including the policy effective date.**

### **BACKGROUND**

[Senate Bill \(SB\) 490](#), signed by Governor Gavin Newsom on October 17, 2019, required CDSS to establish a policy to compromise Administrative Error (AE) claims, in whole or in part, for CalFresh households that include at least one elderly and/or disabled members, including those who receive Supplemental Security Income (SSI). To fulfill the requirements of SB 490, CDSS requested and was authorized by the United States

Department of Agriculture, Food and Nutrition Service (FNS) to establish an OI compromise policy for CalFresh households with elderly and/or disabled members.

SSI recipients were ineligible for CalFresh prior to June of 2019. [Assembly Bill 1811](#), the Human Services Omnibus Trailer Bill for 2018-2019, expanded CalFresh eligibility to SSI recipients beginning June 1, 2019. More details regarding this policy change are outlined in [ACL18-90](#) issued July 31, 2018. With the expansion of CalFresh to SSI recipients, CalFresh now serves more older adults and people with disabilities than ever before.

### **SCOPE OF POLICY**

While SB 490 requires that CDSS establish a policy to compromise AE claims for households that include at least one elderly or disabled member, including, but not limited to, recipients of Supplemental Security Income benefits, the bill does not limit CDSS from establishing an expanded compromise policy for other household members. Per [Title 7 of the Code of Federal Regulations \(CFR\) 273.18\(e\)\(7\)](#), a state agency may compromise any claim or a portion of a claim if it can be determined that a household's economic circumstances will keep them from paying off their claim in three years. Accordingly, CDSS determined the new CalFresh OI compromise policy broadly includes all elderly and/or disabled members, not only those receiving SSI benefits. In addition, the compromise policy applies to both AE and Inadvertent Household Error (IHE) claims.

### **CalFresh Definition of Elderly and/or Disabled**

Under [7 CFR 271.2](#), a person is considered elderly and/or disabled for CalFresh purposes if they are over the age of 60, or meet the disability or blindness criteria used under [Title XVI of the Social Security Act](#), or receive any disability payments from a state or federal agency. Any person meeting the criteria of an elderly and/or disabled member as defined in [7 CFR 271.2](#) will be considered elderly and/or disabled for the purpose of implementing the new OI compromise policy. This definition includes individuals who receive SSI which is a requirement of the provisions of SB 490.

### **NEW CALFRESH OI COMPROMISE POLICY**

CWDs will compromise AE and IHE claims for active and inactive households that include at least one elderly and/or disabled member. AE and IHE claims must be compromised according to household composition and participation status at the time of discovery as follows:

- i. AE and IHE claims for all active and inactive households consisting solely of members who are elderly and/or disabled at the time of the discovery of the claim will be reduced by 100 percent.
- ii. AE and IHE claims for all active and inactive households that include at least one member who is not elderly and/or disabled but only the elderly and/or disabled household members are responsible household members at the time of the discovery of the claim will be reduced by 100 percent.
- iii. AE and IHE claims for all active households that include at least one member who is elderly and/or disabled and at least one member who is not elderly and/or disabled and is a responsible member of the household at the time of the discovery of the claim will be reduced by 50 percent.

CWDs are reminded that the guidance in this ACL does not limit referrals to a Special Investigation Unit when fraud is suspected.

### **Applying the Compromise Policy**

The new OI compromise policy will be applied based on household composition at the time of discovery regardless of whether the household included an elderly and/or disabled member for any month in which the OI occurred. The [Manual of Policies and Procedures \(MPP\) 63-801.11](#) defines the date of discovery as the date “the CWD determined by computation that an overissuance occurred.”

For active and inactive cases, CWDs must use the most recently verified information to determine household composition at the time of discovery. Elderly status, as defined above, for both active and inactive cases must be based on the household member’s age at the time of discovery using the date of birth provided to the CWD. Disability status, as defined above, for active cases must be based on the most recently verified information known to the CWD at the time of discovery. For inactive cases, disability status must be based on a household member’s disability status the last month they were receiving CalFresh benefits if more current disability information is not available.

The total cumulative amount of the OI will be reduced in accordance with this policy. Household members who become either disabled or elderly during collection of an OI must be eligible for reduction. The household must inform the CWD and must have their elderly/disabled status verified by the CWD to have the remaining balance of their OI claim reduced.

## **NOTICING**

CWDs are only required to inform households of a reduction if the household's claim is reduced by 100% on an already established claim. If a household's OI is reduced by 100% prior to the initial establishment of the OI, then the household is not required to be informed. For households receiving a 50% compromise, CWDs must issue a notice to inform the household of the compromise and the remaining balance. CWDs may combine that notice with the notice of overissuance. The CWDs must issue these notices at the time the county discovers the overissuance and establishes the claim.

CDSS is in the process of updating the following forms in order to provide accurate notice of a household's reduction amount and remaining balance:

- CF 377.7B – CalFresh Overissuance Notice for Inadvertent Household Errors (IHE)
- CF 377.7B LP – CalFresh Overissuance Notice - Inadvertent Household Errors (IHE) Only – Large Print
- CF 377.7B1 – CalFresh Repayment Final Notice for Inadvertent Household Errors (IHE)
- CF 377.7B1 LP – CalFresh Repayment Notice - Inadvertent Household Errors Only Final Notice – Large Print
- CF 377.7D3 – CalFresh Overissuance Notice for County Administrative Error (AE)
- CF 377.7D3 LP – CalFresh Overissuance Notice for Administrative Errors (AE) – Large Print
- CF 377.7D2 – CalFresh Repayment Final Notice - County Administrative Error (AE)
- CF 377.7D2 LP – CalFresh Repayment Final Notice - County Administrative Error (AE) – Large Print

Changes to these forms will be made as soon as administratively feasible and ahead of the policy effective date. Noticing requirements will be provided in the guidance informing CWDs of the final policy.

## **IMPLEMENTATION**

The new OI compromise policy will be effective upon completion of automation in the SAWS. Automation will only apply to AE and IHE claims newly established after automation is complete. As previously mentioned, CDSS will issue final guidance to CWDs once the automation timeline is confirmed, and the policy effective date has been finalized.

This new policy does not impact AEs and IHEs that are currently in collection. However, once the new policy is in effect, a household in collection may request a reduction if they meet the elderly or disabled criteria. Households already in collection may also request that the CWD compromise the balance on their existing claim. In this scenario, the CWD must determine the household's eligibility for the new compromise policy and manually reduce the OI claim according to the new compromise policy.

Under the new OI compromise policy, claims that are compromised must remain compromised even if repayment becomes delinquent.

### **Aid Paid Pending**

A household that received aid while waiting for a hearing decision and as a result of an unsuccessful hearing receives an OI, must not have the portion of the claim caused by aid paid pending compromised under this policy. The portion of the claim that was not caused by aid paid pending remains subject to this compromise policy as otherwise required.

### **QUALITY CONTROL**

No special Quality Control procedures are required for cases subject to the provisions of the new OI compromise policy. Cases must be reviewed using standard review procedures contained in the FNS Handbook 310.

If you have any questions or need additional guidance regarding the information in this letter, contact 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