

October 4, 2023

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 23-86

The purpose of this letter is to provide the County Welfare Departments with policy guidance related to Franchise Tax Board (FTB) Tax Intercepts in the California Work Opportunity and Responsibility to Kids (CalWORKs) program. This letter also outlines the difference between an individual requesting a county administrative review to contest the establishment of a CalWORKs overpayment and a state hearing request to contest a county administrative review decision of an FTB intended debt.



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DIRECTOR

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DEPARTMENT OF SOCIAL SERVICES
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GAVIN NEWSOM
GOVERNOR

October 4, 2023

ALL COUNTY LETTER NO. 23-86

TO: ALL COUNTY WELFARE DIRECTORS
ALL ADMINISTRATIVE LAW JUDGES
ALL COUNTY CALWORKS COORDINATORS
ALL CALWORKS PROGRAM SPECIALISTS
ALL CONSORTIUM PROJECT MANAGERS
ALL COUNTY TAX INTERCEPT COORDINATORS
ALL COUNTY INCOME AND ELIGIBILITY VERIFICATION
SYSTEM COORDINATORS

SUBJECT: STATE HEARING REQUEST FOR THE FRANCHISE TAX BOARD
TAX INTERCEPT PROGRAM

REFERENCE: [TITLE 7 CODE OF FEDERAL REGULATIONS 273.18\(n\)\(2\)\(ii\)](#); [WELFARE AND INSTITUTIONS CODE SECTIONS 10950, AND 10951](#); [CALIFORNIA GOVERNMENT CODE SECTION 12419.5](#); CALIFORNIA DEPARTMENT OF SOCIAL SERVICES MANUAL OF POLICIES AND PROCEDURES SECTIONS [20-400](#), [20-407](#), [20-408.1](#), [22-001\(I\)](#), [22-009.1](#), [22-049.53](#), [22-054.34](#), [22-065](#) AND [22-078.11](#); ALL COUNTY LETTERS (ACL) [16-108](#), [19-22](#), [19-102](#), AND [21-109](#); [ALL COUNTY WELFARE DIRECTORS LETTER \(ACWDL\) DATED JULY 30, 2020](#), AND [ACWDL DATED APRIL 8, 2021](#); ANDERSON v. MCMAHON SUPERIOR COURT, ALAMEDA COUNTY, 1989

The purpose of this All County Letter (ACL) is to provide the County Welfare Departments (CWDs) with policy guidance related to the Franchise Tax Board (FTB) Tax Intercepts in the California Work Opportunity and Responsibility to Kids (CalWORKs) program. This letter also outlines the difference between an individual requesting a county administrative review to contest the establishment of a CalWORKs overpayment and a state hearing request to contest a county administrative review decision of an FTB intended debt.

Background

The FTB intercept process for CalWORKs differs from tax intercepts performed under the Treasury Offset Program (TOP). [The California Government Code section 12419.5](#) and the California Department of Social Services' (CDSS) [Manual of Policies and Procedures \(MPP\) section 20-400](#) authorizes the CDSS to use the FTB Interagency Intercept Collection Program (IICP) to intercept personal income tax refunds, lottery winnings, and unclaimed property disbursements for delinquent CalWORKs debts. This letter outlines the administrative review and state hearing processes for FTB intercepts of delinquent CalWORKs debts.

This letter is updating guidance found in [MPP section 20-407](#), regarding administrative reviews and the FTB intercept program for delinquent CalWORKs debts, to reflect the policies outlined in this letter. [MPP section 20-407](#) will be revised to reflect the policies outlined in this letter.

In March 2020, the FTB implemented a statewide suspension of all non-tax debt collection activities in response to the COVID-19 public health emergency ([All County Welfare Directors Letter dated July 30, 2020](#)). This letter informs counties of the resumption of the FTB IICP on July 13, 2022.

County Administrative Review for Franchise Tax Board Related Debts

Prior to a delinquent debt being submitted to the FTB, a CalWORKs recipient 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 recipient must submit a written request to the CWD for an administrative review within 30 calendar days of receiving the FTB pre-offset notice. If the request is made within this period, the CWD must submit a Record Type 2 to decrease the debt in the Welfare Intercept System (WIS) to prevent the debt from being submitted to the FTB ([ACL 16-108](#)). If a county administrative review request is received by the CWD beyond the 30-day timeframe, the CWD must not suspend the debt in the WIS while conducting the review. However, if through the county administrative review, the CWD determines that the debt is not eligible for the FTB intercept, the CWD must submit a Record Type 3 to "delete" the debt in the WIS.

If requested, recipients are entitled to inspect and copy the CWD's records related to their debts prior to a county administrative review. The CWD must provide reasonable accommodations to recipients 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\(I\)](#);
- Verify that a demand letter/notice was properly issued;

- Ensure CalWORKs overpayments resulting from Client Error and Administrative Error amounts exceed the \$250 collection threshold ([ACL 19-102](#)) and are within the two-year collection period from the date of computation ([ACL 21-109](#));
- Verify that the recipient 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 CalWORKs assistance unit;
- Verify the current balance of the claim and any collections or payment agreements;
- Verify the claim meets the criteria for referral to the FTB per [MPP section 20-403](#); and
- Consider any evidence provided by the recipient.

The CWD must complete its review and issue a decision in writing within 30 calendar days of receiving the recipient's request. If the CWD finds the claim is legally enforceable, the decision letter must contain sufficient detail to support the county's determination. At a minimum, 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 the FTB; and
- A statement informing the recipient they may request a State Hearing to review the CWD's decision and the requirements for such a review

If the CWD concludes the debt is legally enforceable through the county administrative review process, the CWD must submit a Record Type 7 to increase any suspended debt in the WIS ([ACL 16-108](#)) if the claimant does not request a state hearing within 90 calendar days of the initial claim notice pursuant to MPP section 22-009.1.

If the CWD concludes the debt is not legally enforceable, the CWD must submit a Record Type 3 to "delete" the debt and promptly return any excess money intercepted to the individual within 10 calendar days of receipt of the decision. ([MPP section 20-408.1](#))

State Hearing Request Prior to or After a County Administrative Review Request

If a recipient requests a state hearing prior to requesting a county administrative review, the CWD must consider the request as an appeal to the establishment of the CalWORKs overpayment.

If a recipient requests a state hearing upon or after requesting a county administrative review, but prior to receiving the county administrative review decision, the CWD must consider the request as an appeal to the establishment of the CalWORKs overpayment.

State Hearing Requests to Contest Administrative Review Intended for the Franchise Tax Board Interagency Intercept Collection Program

Individuals who are dissatisfied with a county administrative review decision of a debt intended for the FTB IICP may request a state hearing in accordance with [MPP section 22-009](#).

The CWDs must follow the instructions in the sections below to determine whether the FTB Intercept process must be suspended when the individual appeals the county administrative review decision pursuant to [MPP section 20-403.24](#). If a state hearing is requested after an intercept has occurred, the individual must not be refunded intercepted funds while awaiting a decision.

If the state hearing concludes the debt is not legally enforceable, the CWD must submit a Record Type 3 to “delete” the debt and promptly return any excess money intercepted to the individual within 10 calendar days of receipt of the decision.

State Hearing Requests within 90 days

Recipients who are dissatisfied with a county action or result of a county administrative review may request a state hearing within 90 calendar days after the date of the adequate and language-compliant written county notice of action (NOA) or initial demand letter informing the recipient of the CalWORKs overpayment or the county administrative review written decision. If a state hearing to contest a county administrative review decision is received within this timeframe, the debt is not eligible for intercept and the CWD must take action to avoid the debt from being submitted to the FTB.

Effective immediately, upon a state hearing request within 90 calendar days after the date of the demand letter, NOA, or adverse administrative review decision, the CWD must submit a Record Type 3 to “delete” the debt in the WIS and stop the offset process. If the CWD receives a notice of state hearing request from the CDSS, the CWD must confirm the request is within the 90-day period from the initial demand letter, NOA, or administrative review written decision prior to deleting the debt in the WIS.

State Hearing Requests Beyond 90 days

Upon request for state hearing made beyond 90 calendar days but no more than 180 calendar days of a CalWORKs overpayment demand letter or a NOA, counties may submit a request to the regional Presiding Administrative Law Judge (ALJ) 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](#), if appropriate. The request for bifurcation should include a copy of the original demand letter or NOA, any evidence of the claimant’s indication of language preference, and a copy of the WIS screen showing

the date and address to which the FTB Pre-offset notice was sent. The CWDs must send an email to taxintercept@dss.ca.gov to obtain a copy of the WIS screen.

If the ALJ finds jurisdiction of appeals made within 180 calendar days pursuant to [MPP section 22-009.13](#), the recipient is entitled to a state hearing on the debt and the claim then is ineligible for the FTB intercept. In these cases, the claim will only be deleted in the WIS once jurisdiction is established. The CWDs must submit a Record Type 2 to decrease the debt in the WIS to suspend it while awaiting a jurisdiction determination.

If the ALJ finds jurisdiction for a state hearing requested beyond 180 calendar days, the FTB process must not be stopped pending the issuance of the hearing decision. If the funds have already been intercepted, the recipient will only be refunded if a state hearing decision finds the debt is either not delinquent, or not legally enforceable. If funds have not been intercepted, the CWD must submit a Record Type 3 to “delete” the debt in the WIS.

Multiple Hearing Requests on the Same Underlying Debt

Per [MPP section 22-054.34](#), an appeal will be dismissed if the ALJ determines the state 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 overpayment 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 the WIS if the ALJ finds jurisdiction on the duplicate request.

If the duplicative hearing is requested beyond 180 calendar days, the FTB process must not be stopped. If the funds have already been intercepted, the claimant will only be refunded if a state hearing decision concludes the debt is either not delinquent, or not legally enforceable. If funds have not been intercepted, the CWD must submit a Record Type 3 to “delete” the debt in the WIS.

Compliance with State Hearing Decision

If the state hearing decision determines the debt, which had been removed from the 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 notice. If the recipient 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 the WIS. The CWD must submit Record Type 1 to “establish” the debt in the WIS using the new delinquency date ([ACL 16-108](#)).

Rehearing Rights

Per [MPP section 22-065](#), if the CWD disagrees with the hearing decision, it may request a state rehearing within 30 calendar days of receipt of the decision for the establishment of the overpayment. Per [MPP section 22-078.11](#), the CWD must still initiate compliance with the decision pending the rehearing review.

Per [MPP section 22-065](#), if the claimant disagrees with a hearing decision, they may request a rehearing within 30 calendar days of receipt of the decision. If a rehearing is granted no later than 180 calendar days from the date of the adequate and language-compliant written county NOA or initial demand letter informing the recipient of the CalWORKs overpayment, the CWD must submit a Record Type 2 to decrease and suspend the debt in the 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 the WIS. If a rehearing decision concludes the debt is past due and legally enforceable, the CWD must submit Record Type 7 to increase the debt in the WIS.

If a rehearing is granted beyond 180 calendar days from the date of the adequate and language-compliant written county NOA or initial demand letter informing the client of the CalWORKs overpayment, the FTB process must not be stopped pending the issuance of the rehearing decision. If the funds have already been intercepted, the recipient will only be refunded if the rehearing decision finds the debt is either not delinquent, or not legally enforceable. If funds have not been intercepted, the CWD must submit a Record Type 3 to delete the debt in the WIS.

If there are any questions regarding the completion of this new process, please contact the CDSS Data Stewardship and Integrity Bureau at taxintercept@dss.ca.gov.

Sincerely,

Original Document Signed By

RYAN GILLETTE
Chief Data Officer
Research, Automation, and Data Division