

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



June 28, 2002

ALL-COUNTY INFORMATION NOTICE NO. I-46-02

TO: ALL COUNTY WELFARE DIRECTORS
ALL FOOD STAMP COORDINATORS

SUBJECT: FOOD STAMP WORK REQUIREMENT AND SANCTION QUESTIONS
AND ANSWERS

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

This All County Information Notice (ACIN) provides answers to questions raised by the Food Stamp Committee's Technical Review Team and other county staff. Topics include Able-Bodied Adult Without Dependents (ABAWD) work requirement exemptions, overissuance requirements, and food stamp sanctions.

Exemptions

Question 1:

A foster parent resides with her natural 18-year old son and two foster children, ages three and seven. The foster children are not receiving food stamps because the foster parent does not want the foster payments considered when determining food stamp eligibility for herself and her 18-year old son. Regulations at Manual of Policies and Procedures (MPP) Section 63-410.323 exempt from the ABAWD work requirement any adult living in a food stamp household that contains a dependent child. Does the foster parent and her natural son qualify for this exemption based on the presence of foster children in the home? Are the foster children considered to be part of the food stamp household for purposes of determining whether this exemption applies?

Answer:

No. Neither the mother nor her 18-year old son would qualify for the ABAWD dependent care exemption because the foster children are not considered to be part of the food stamp household.

Per MPP Section 63-402.322, a foster child placed by a governmental program into a private home shall be considered a boarder. Boarders may participate as a member at the household's request (MPP Sections 63-402.32 and 63-402.322(b)). Since the foster

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mother chooses not to receive food stamps for her foster children, then the foster children are not part of the household and the ABAWD work exemption would not apply.

Question 2:

Regulations at MPP Section 63-407.21 (b) exempt from work registration an individual who is physically or mentally unfit for employment. If the unfitness is questionable, verification shall be required and may include a statement from a licensed physician or psychologist. Can a statement from a chiropractor be used to verify a claim of unfitness for purposes of the unfitness exemption?

Answer:

Yes. The exemption based on unfitness can be verified by a statement from a chiropractor.

Question 3:

A food stamp household consists of two parents, who are subject to California Work Opportunity and Responsibility to Kids (CalWORKs) Welfare-to-Work (WTW) participation requirements, and two children under age six. Both parents fail to meet WTW participation requirements and each receives a CalWORKs sanction. Regulations at MPP Section 63-407.54 and .542 state that when a WTW sanction is imposed, a food stamp sanction is also imposed, unless the individual qualifies for one of the work registration exemptions at MPP Section 63-407.21. These exemptions include a parent or other household member responsible for care of a dependent child under six years of age [MPP Section 63-407.21(d)].

Do both parents qualify for the dependent care exemption at MPP Section 63-407.21(d) in a household where both parents are responsible for care of the same child(ren)? In the case at hand, would one or both parents receive a food stamp sanction?

Answer:

Only one parent in a two-parent household can qualify for the exemption based on care for a child under age six, regardless of the number of children in the household. The parents must designate which parent will be responsible for care of the child(ren) under age six. The designated parent will be exempt from the work requirement and sanctions, and the other parent will be subject to them. In this situation, one of the parents would receive a one, three, or six month food stamp sanction based on the imposition of a WTW sanction.

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Question 4:

Food Stamp Employment and Training (FSET) program regulations at MPP Section 63-407.21(b) exempt from work registration a person who is physically or mentally unfit for employment. Please define this exemption more specifically. The county is concerned that individuals whose unfitness is minor and/or very temporary will be exempt from the work requirement.

Answer:

An individual shall qualify for the unfitness exemption if a doctor verifies that the individual has a physical or mental condition, which is expected to last at least 30 days and significantly impairs the recipient's ability to be regularly employed or participate in employment and training activities. To qualify for this exemption, the individual must be actively seeking appropriate medical treatment. When these criteria are met for all or part of any month, the client shall be considered exempt for that month. For example, if an individual becomes physically unfit in the middle of November and the unfitness continues into December, he would be exempt for November and December. This definition is consistent with the CalWORKs criteria for the Welfare-to-Work disability exemption at MPP Section 42-712.44.

Overissuance

Question 5:

An ABAWD receives FS for three months without satisfying the ABAWD work requirement and his FS are discontinued effective March 1. In May, the ABAWD regains eligibility by participating in FSET workfare. He subsequently stops participating in July, which was not discovered until early November. The county determined that the ABAWD had good cause for not participating due to temporary illness in the month of July.

Question 5A:

Should an overissuance be collected for any of the months in which the individual received FS without satisfying the ABAWD work requirement even though he had good cause in July for not participating in FSET workfare?

Answer:

Yes, an overissuance claim must be established for the month of November, assuming that a timely notice of action was sent and benefits were discontinued at the end of November. Since the individual stopped meeting the ABAWD work requirement for a non-sanctionable reason in July, he is eligible for the three-consecutive month grace

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period starting with the first month that good cause no longer exists for the FSET noncompliance (i.e., August) and ending October 31. Since the ABAWD work requirement was not met in November, an overissuance claim must be established for that month.

Question 5B:

In the same situation, should an overissuance be collected when good cause does not exist for FSET noncompliance?

Answer:

Yes, an overissuance claim would be established for August through November, assuming benefits were appropriately discontinued at the end of November. A claim would not be established for the month of July because a participant does not lose eligibility until the month following the month of non-compliance. In addition to the overissuance claim, a FSET sanction would be prospectively imposed effective December 1. Persons who fail to meet the ABAWD work requirement for a reason that leads to imposition of a FSET sanction are not eligible for the three-consecutive month grace period. **This response supercedes the response contained in ACIN No. I-76-00, question 31, dated July 26, 2000.**

Sanctions

Question 6:

Regulations at MPP Section 63-407.54 require imposition of a food stamp sanction when an individual is sanctioned for failing to comply with the work requirements of a CalWORKs, unemployment compensation, or substitute program such as General Assistance (GA). Furthermore, regulations at MPP Section 63-407.543 state that when an individual identified in MPP Section 63-407.54 complies with the requirement previously violated, the food stamp sanction shall end and the individual is again exempt from food Stamp work registration. Does this provision apply to an individual who ends a GA work sanction through program compliance?

Answer:

No. MPP Section 63-407.543 does not apply to an individual who cures a GA work sanction. Only persons who cure a CalWORKs or unemployment compensation work sanction are immediately eligible for food stamps because they are again satisfying a work requirement, which exempts them from work registration in accordance with MPP Section 63-407.21 (c) or (e). Participation in a substitute program identified in MPP Section 63-407.23 is not a work registration exemption and such participation does not end a food stamp sanction. Therefore, an individual who cures his GA sanction remains

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under food stamp sanction for one, three or six months, unless he qualifies for one of the work registration exemptions at MPP Section 63-407.21, whichever is earlier.

Question 7:

Is abandonment of a job considered a job quit? Frequently clients will apply and indicate that they had child care problems, were sick or for various other reasons did not show up for work. When they finally do go back to work, they are told by their employer that because they did not appear for their scheduled shift, the employer considered this a job quit. The Employment Development Department will not pay unemployment or state disability benefits based on these circumstances. Is this considered a job quit for purposes of food stamp eligibility? Would it be considered a job quit if the client simply stops appearing for a job?

Answer:

If an individual loses a job because he abandoned it without good cause, then a voluntary quit has occurred. However if the individual fails to appear because of good reasons that can constitute good cause, then the absence from work is not considered a voluntary quit. Good cause criteria are listed at MPP Section 63-408.41, and they include illness, lack of transportation, a household emergency, and lack of adequate child care for children ages six through eleven.

Question 8:

Is an individual considered to have voluntarily quit employment if he/she is fired due to his/her misconduct or late appearances?

Answer:

Yes. Voluntary quit requirements at MPP Section 63-408 apply to an individual who causes himself to be fired because of misconduct. To be considered a voluntary quit, the employment must involve at least 20 hours per week or provide weekly earnings equal to the federal minimum wage multiplied by 20 hours, and the county must determine that the individual did not have good cause for losing the job.

Question 9:

An individual quits a job on July 10 and applies for food stamps on July 20. The county determines that the individual did not have good cause for the job quit and informs the individual that his application will be denied until October 10, which is 90 days from the date of the voluntary quit. After a determination that good cause does not exist for a voluntary job quit, can an individual withdraw his application and reapply at a later time in order to avoid the 90-day denial period?

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Answer:

No. Regulations at MPP Section 63-408.12 state that upon a determination that an individual has voluntarily quit employment without good cause, the food stamp application shall be denied for 90 days starting from the date of quit. Once a determination of no good cause is made, the application cannot be withdrawn for purposes of avoiding the 90-day denial period.

If you have any questions regarding this letter, please contact Robert Nevins at (916) 654-1408. Specific questions regarding the treatment of income and resources and food stamp application requirements should be directed to the Food Stamp Policy Bureau at (916) 654-1896, where staff will direct your call to the appropriate analyst.

Sincerely,

*Original Document Signed by
Suzanne Nobles on 6/28/02 for*

CHARR LEE METSKER, Chief
Employment and Eligibility Branch

c: CWDA
CSAC