



CDSS

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GOVERNOR

September 26, 2013

ALL COUNTY INFORMATION NOTICE I-60-13

REASON FOR THIS TRANSMITTAL

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

TO: ALL COUNTY WELFARE DIRECTORS
ALL CalFRESH PROGRAM SPECIALISTS
ALL CalWORKs PROGRAM SPECIALISTS
ALL CONSORTIA REPRESENTATIVES
ALL QUALITY CONTROL COORDINATORS
ALL COUNTY SPECIAL INVESTIGATIVE UNIT CHIEFS

SUBJECT: ELECTRONIC RECORDS AND TELEPHONIC SIGNATURES IN THE CALFRESH AND CALWORKS PROGRAMS

REFERENCE: TITLE 7 UNITED STATES CODE SECTION 2020; AFFORDABLE CARE ACT (ACA) OF 2010 (PUBLIC LAW 111-148); CIVIL CODE SECTION 1633.1-1633.17; ALL COUNTY LETTER NO. 07-40

The purpose of this letter is to provide county welfare departments (CWDs) with information regarding the use of telephonic signatures in the CalFresh and CalWORKs programs. California Government Code requires that the Office of the Secretary of State, in consultation with the Department of General Services, approve and adopt appropriate standards for electronic storage and recording of documents. The information contained in this letter is applicable and limited to the CalFresh and CalWORKs programs.

BACKGROUND

A telephonic signature is a type of electronic signature that uses an individual's recorded spoken signature or verbal assent in place of an actual written signature, and is considered legally enforceable under certain conditions. The use of a telephonic signature, as part of the application or redetermination/recertification process, will eliminate the process of mailing documents in order to gather a client's ink signature.

AUTHORITY

The 2008 Farm Bill, at 7 U.S.C. § 2020(e)(2)(C), allows for the acceptance of verbal assent for the Supplemental Nutrition Assistance Program (SNAP). Further, the federal Temporary Assistance for Needy Families (TANF) program, known as CalWORKs in California, does not preclude the acceptance of telephonic signatures. In an effort to further streamline the delivery of services, to promote programmatic alignment, and to help CWDs meet provisions mandated in the ACA which require states to accept telephonic signatures in 2014, CDSS is offering this guidance for the acceptance of a verbal assent as an official signature as required on documents such as CalFresh or CalWORKs applications.

Current law supports the use of telephonic signatures. CWDs must follow industry standard practices on the creation, storage, and transmission of electronic documents as they pertain to verbal assent. Welfare and Institutions Code 10851 and other sections of state law referenced therein specify the criteria which must be met before digitally stored files can be used in lieu of original documents. California Civil Code section 1633.1 et seq., codified the Uniform Electronic Transactions Act (UETA), which provides standards on electronic storage, document transmission, security procedures, and electronic signatures.

Section 1633.7(c) of the UETA specifies that if a law requires a signature, an electronic signature satisfies the law. Further, an electronic signature is defined at section 1633.2(h) as an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record. A telephonic signature may be considered an electronic signature.

All current CDSS Manual of Policies and Procedures (MPP) requirements remain in effect. No regulatory requirements have changed due to the use of telephonic signatures, including but not limited to, guidance regarding the gathering of signatures, ensuring client access to case records, records retention, and the requirement to provide services in required languages.

It is not a mandate that CWD's accept a telephonic signature for CalFresh or CalWORKs. As such, there is no CDSS funding available for the implementation of telephonic signatures. However, federal funding may be available for the development of ACA-compliant Medicaid eligibility systems.

FARM BILL PROVISIONS

As mandated by 7 U.S.C. § 2020(e)(2)(C), CWDs must meet the following requirements when implementing telephonic signatures:

- CWDs must record both the household's verbal assent that it is officially applying for benefits and the information it is assenting to. That is, the person being recorded must provide a verbal affirmation as to their understanding that the recording will carry the same weight and effect as a signature. As well, the information provided for the application or recertification must be part of the recording.
- CWDs must promptly provide a written copy of the information provided, along with simple instructions for correcting errors or omissions, to the household so that the applicant may review the information and make any necessary changes within ten days. Although the copy does not need to be a transcript of the conversation, it must contain the information that is used to determine eligibility and benefit level. An additional signature is required when submitting corrections only if an additional signature would otherwise be required.
- CWDs must establish effective safeguards to ensure against identity theft, impersonation, and invasions of privacy. Identity is the only criterion that all households must verify; verification of identity should suffice in most cases. When identity remains questionable, the authority exists to require additional verification. See All County Information Notice I-45-11 for further information regarding verification requirements.
- CWDs must ensure that this process does not deny or interfere with clients' right to apply for benefits in writing.
- For CalFresh, CWDs must use the date of the telephonic signature as the filing date. (For CalWORKs see the Telephonic Signature Implementation section.)

TELEPHONIC SIGNATURE IMPLEMENTATION

The following shall be considered when developing procedures regarding the implementation of telephonic signatures:

- Regulations require a face-to-face interview for CalWORKs applications. As such, for CalWORKs application purposes, the SAWS 1 would normally be the form applicable to telephonic signatures. For CalWORKs redeterminations, a telephonic signature may be obtained for the SAWS 2.
- In cases where more than one party must sign an application, a signature (telephonic or otherwise) must still be provided by all required parties. In cases where a face-to-face interview is required, a face-to-face interview must still be conducted.
- For CalWORKs, the filing date is the date that the County receives the completed initial application, which is not necessarily the date of the interview. For example, for CalWORKs applications, the filing date would be the date the SAWS 1 was completed, whereas the SAWS 2, or Statement of Facts, requires a face-to-face interview and therefore may be completed at a later date.
- A telephonic signature shall be considered a signature if the signatory understands that a telephonic signature is being used, consents to the use of a telephonic signature, and intends the signature to have the same force and effect as a written signature.
- A script is recommended to ensure all points are covered during the verbal assent. Examples of telephonic signature scripts can be found at the CalFresh extranet (see link below).
- As previously stated, the CWD must send a printed copy of the information the household assented to so that the household may review and correct the information as needed.
- CWD's must ensure the recorded verbal assent is associated with the client's electronic case record and is retrievable for, but not limited to, quality control and state hearing purposes.
- CWD's must distinguish that a telephonic signature has been gathered. A check box indicator that is part of the electronic case file is one example of how this information may be captured.
- Telephonic signatures may also be accepted in other instances, where a signature is required and an electronic signature is not specifically precluded, once county policies and procedures are implemented to do so.

To ensure compliance with the laws and standards that apply to telephonic signatures, county information technology or Statewide Automated Welfare System consortia staff should assist in the development of telephonic signature systems and related policies.

Additional information and links to helpful websites can be found at the CalFresh extranet at: <http://www.cdsscounties.ca.gov/foodstamps/>. If you have any questions regarding the information in this letter, you may contact the CalWORKs Eligibility Bureau (916) 654-1322 or your CalFresh County Consultant, at (916) 654-1896.

Sincerely,

Original Document Signed By:

LINDA PATTERSON, Chief
CalFresh Branch

KÄREN DICKERSON, Chief
CalWORKs Employment and Eligibility Branch