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July 22, 2009

ALL COUNTY INFORMATION NOTICE I-54-09

TO: ALL COUNTY WELFARE DIRECTORS
ALL FOOD STAMP COORDINATORS
ALL CalWORKs PROGRAM SPECIALISTS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: FOOD STAMP QUESTIONS AND ANSWERS (Q&As)

The purpose of this letter is to provide counties with questions and answers regarding Food Stamp Program policy. These questions were submitted by the Food Stamp Review and Advisory Team (FRAT) of the County Welfare Director's Association. Answers were developed at the state level and finalized with assistance from FRAT members.

Answers to these questions are intended to be informational and are only based on the general circumstances provided in the question. For appropriate application to specific case circumstances, counties should refer to the regulations, All County Letters, and All County Information Notices that are referenced in the responses.

Should you have any questions regarding this ACIN, please feel free to contact, Alicia Thomason, of the Policy Implementation Unit at (916) 657-2630.

Sincerely,

Original Document Signed By:

CHRISTINE WEBB-CURTIS, Chief
Food Stamp Branch
Welfare to Work Division

Attachment

OVERISSUANCE – EXCLUDED HOUSEHOLD MEMBER

QUESTION:

Can the county demand repayment from an excluded household member such as an SSI/SSP recipient or an undocumented person?

ANSWER:

Yes, for excluded household members other than SSI/SSP members. At 7 CFR 273.18, Federal regulations state adult members of the household are responsible for overissuances (O/I). Excluded household members, are part of the household, but not currently receiving benefits due to ineligibility status, such as being sanctioned, having SSI status or having drug/fleeing felon status (please refer to MPP section 63-402.22). Given the fact that they are adults and considered part of the household and could have caused the O/I, excluded household members not currently in a status to be receiving benefits, are responsible for repayment of an O/I claim. Although SSI/SSP recipients may be responsible for the O/I, repayment cannot be demanded from the SSI/SSP benefit. Repayment can be demanded from the other excluded adult household members.

OVERISSUANCE – TAX INTERCEPT

SCENARIO:

A food stamp case contains a mom and adult son; mom was the head of household. An overissuance occurred as a result of mom failing to report the son's earnings. The son left the household and the food stamp case is now being benefit reduced for collection of the overissuance. The son has also been notified that his taxes are being intercepted.

QUESTION:

Can the county intercept the son's taxes at the same time that an allotment reduction is being made to the food stamp case?

ANSWER:

Although all adult household members are jointly and individually liable for the value of any overissuance of benefits to the household, the CWD cannot request a tax intercept simultaneously when an allotment reduction is currently being used to collect the overissuance amount. (MPP section 20-403.21)

TFS/FATHER LEAVES HOME APPROVED FOR CALWORKS

SCENARIO:

The Transitional Food Stamp (TFS) case consists of the mother, father, and two children. The father left the home and applied and was approved for CalWORKs only for himself in another family.

QUESTION:

Should the father be removed from the original TFS case, when approved for CalWORKs only benefits (not food stamps)?

(ACIN I-21-04, MPP section 63-503.132, ACL 08-22, ACL 08-22E)

ANSWER:

Yes. The father, his income, deductions (such as the 20% earned income deduction or medical deduction) are removed for the purpose of calculating TFS benefits for the remaining TFS household members. (ACIN I-21-04)

NONCITIZEN ELIGIBILITY

QUESTION:

Which noncitizens are immediately eligible for Federal Food Stamp Benefits without a waiting period?

ANSWER:

There are some noncitizens that are immediately eligible for benefits without having to meet other noncitizen requirements, as long as they are otherwise eligible for benefits. The following first two tables list the noncitizens immediately eligible without a waiting period. The third and last table lists noncitizens that require a waiting period. This guidance was released by the Food and Nutrition Service and can be found at:

<http://www.fns.usda.gov/fsp/rules/Memo/02/POLIMGRT.HTM>.

Noncitizens immediately eligible for benefits providing they meet all other conditions of eligibility without needing to wait five years.
<ul style="list-style-type: none">• Noncitizen Nationals (people born in American Samoa or Swain's Island)
<ul style="list-style-type: none">• Native Americans born in Canada and Mexico
<ul style="list-style-type: none">• Members (born outside the U.S.) of Native American tribes under Section 450b(e) of the Indian Self-Determination and Education Assistance Act
<ul style="list-style-type: none">• Members of Hmong or Highland Laotian tribes that helped the U.S. military during the Vietnam era and who are legally living in the U.S., and their spouses or surviving spouses and unmarried dependent children.

Note: Citizens of the Northern Mariana Islands (NMI) **were declared citizens** of the U.S. under Public Laws 94-241 and 99-239, if certain conditions were met. The individual must have been issued either:

- A U.S. passport, or
- A certificate of identity issued by the Commonwealth of the NMI.

The main islands of the Marianas are Saipan, Tinian, and Rota. Individuals of NMI who do not provide either a U.S. passport or a certificate of identity, issued by the Commonwealth of NMI, are to be considered noncitizens, and must meet all noncitizen verification requirements. (MPP section 63-405)

Additional information sources: Food and Nutrition Service and United States Citizenship and Immigration Services

Qualified Noncitizens immediately eligible for benefits providing they meet all other conditions of eligibility without needing to wait five years.
<ul style="list-style-type: none"> • Granted asylum under Section 208 of the Immigration and Naturalization Act (INA)
<ul style="list-style-type: none"> • Refugee admitted under Section 207 of INA
<ul style="list-style-type: none"> • Deportation withheld under 243(h) or 241(b)(3) of INA
<ul style="list-style-type: none"> • Cuban or Haitian entrant as defined in 501(e) of the Refugee Education Assistance Act of 1980 or paroled as a “Cuban/Haitian Entrant.”
<ul style="list-style-type: none"> • Cuban medical professionals paroled under INA Section 212(d)(5) as Cuban/Haitian Entrants are immediately eligible for federal food stamp Benefits as qualified noncitizens per MPP Section 63-405.115. These individuals are paroled as Cuban/Haitian Entrants, meeting the definition of Cuban/Haitian Entrant under the Refugee Education Assistance Act, Section 501(e).The spouse of the medical professional who is non-Cuban and who is admitted as a parolee under Section 212(d)(5) of the INA may apply for LPR status after one year of residency as evidenced by the Form I-551 (green card) per ACIN I-71-08.
<ul style="list-style-type: none"> • Amerasian immigrant under 584 of the Foreign Operations, Export Financing and Related Program Appropriations Act.
<ul style="list-style-type: none"> • An Lawful Permanent Resident (LPR) who has earned or can be credited with 40 quarters of work
<ul style="list-style-type: none"> • (LPR) with a military connection (veteran, on active duty, or spouse or child of a veteran or active duty service member).
<ul style="list-style-type: none"> • Lawfully in the U.S. on Aug 22, 1996, and currently under age 18. (continuing eligibility will be reviewed once the noncitizen child reaches age 18)
<ul style="list-style-type: none"> • Lawfully in U.S. and 65 or older as of August 22, 1996
<ul style="list-style-type: none"> • Lawfully in the U.S. and receiving government payments for disability or blindness.
<i>There is no longer a seven-year limit on federal eligibility for refugees, asylees, Amerasians, and Cuban/Haitian entrants (Farm Security and Rural Investment Act of 2002).</i>

The following table lists noncitizens with a 5-year waiting period due to additional requirements.

Qualified noncitizens who must meet additional criteria to receive benefits are eligible after a five-year waiting period. They are as follows:
<ul style="list-style-type: none"> • An LPR who has earned, or has been credited with less than 40 quarters of work
<ul style="list-style-type: none"> • Paroled for at least one year under section 212(d)(5) of INA
<ul style="list-style-type: none"> • Granted conditional entry under 203(a)(7) of INA in effect prior to 04/01/80
<ul style="list-style-type: none"> • Battered spouse, battered child or parent or child or a battered person with a petition pending under 204(a)(1)(A) or (B) or 244(a)(3) of INA

TRANSITIONAL HOUSING PROGRAM-PLUS (THP-PLUS)

BACKGROUND:

The THP-Plus is a transitional housing placement opportunity for emancipated foster youth, aged 18-24, who are emancipated from the child welfare system. The goal of the program is to provide a safe living environment while helping youth achieve self-sufficiency so that they can learn life skills upon leaving the foster care support system.

QUESTION:

How are the food stamp benefits calculated, when considering the monies received from the THP-Plus program?

- a) The payment is a set amount for those who qualify regardless of any other income. The funds are given to an outside agency that administers the program for the county and works with the youth.
- b) A set amount goes into an Emancipation Fund account which cannot be accessed until the youth is out of the program. A budget is set up for the child's living expenses and varies based on the child's needs which also includes discretionary funds. These funds will also pay the housing expenses for a child that is either living on their own or living in a group home environment.

ANSWER:

The money put into the Emancipation Fund is excluded as a resource. The money paid directly to a third party for housing will be considered income in kind and no expenses allowed. Money made available to the youth whether spent, held or put into personal savings would be considered unearned income in the month received for the food stamp budget. (MPP section 63-502.14)

VETERAN'S EDUCATIONAL INCOME

SCENARIO:

Client is receiving Veteran's Educational Income. When entered into the system as education income the system is using 20% of the income against the Food Stamp (FS) budget. The income is divided over the period of time that was entered, \$500 for tuition, for 6 months. ($\$500 \text{ divided by } 6 = \83.33) On the completed budget the \$83.33 was divided by 80% and used the remaining \$16.66 in the FS budget.

QUESTION:

Should this income be used in the food stamp budget? Where is it found in regulations on how to use this income?

ANSWER:

Veteran's educational assistance is counted as income to the extent it is not used to pay educational expenses. The Farm Bill of 2008 recently exempted educational benefits to the extent they are tax preferred, i.e., 529 Funds. Since this Veteran's Educational benefit is not tax preferred, whatever benefit is remaining after expenses are deducted is prorated over the period the benefit is expected to cover, i.e. a semester. (MPP section 63-502.145) MPP section 63-502.2(e) provides policy regarding the income, exclusions, and deductions allowed from educational assistance. At MPP section 63-502.145, allowable educational expenses include tuition, mandatory fees, books, supplies, transportation, dependent care, miscellaneous personal expenses (other than living expenses such as rent) and origination fees and insurance premiums on student loans. The remaining educational grant used as income is not subject to the 20% earned income deduction.

REPLACEMENT ISSUANCE – HOUSEHOLD MISFORTUNE

SCENARIO:

Case #1 – Household (owns their own home) states their refrigerator stopped working and the part needed had to be ordered from Canada. The household lost the food contents of the refrigerator due to this incident.

Case #2 – All of the household's "dry goods" were destroyed by insects.

QUESTION:

Do these scenarios fall under the definition of "household misfortune"?

ANSWER:

Case #1 – Although there is not a specific definition to the term "household misfortune," regulation at MPP section 63-603.113 states food purchased with benefits can be received by the household through a replacement issuance. Regulations in MPP section 63-603, in general, indicate that replacement benefits are occurrence. The scenario above does constitute a household misfortune; therefore, the household is eligible to replace the food that was lost due to the refrigerator not working.

Case #2 – This scenario would generally not fall under the definition of "household misfortune" because it is considered a preventable circumstance and one that happens periodically to other households. However, the determination is the county's based on the given circumstances of the case. The case record should be documented.

SEPARATE HOUSEHOLD STATUS

QUESTION:

A 21 year old and her two year old child are living with her elder mother. The elder mother is capable of purchasing and preparing her own food. On the application, the 21 year old states she purchases and prepares separately from her elder mother. During the interview, the worker explained the regulation requirement to the 21 year old that the elder mother must be included. MPP section 63-402.142 states parents living with their natural adopted or step children or children living with their natural, adopted or stepparents cannot have separate household status if the child is less than 22 years of age. How should this case be handled, denied or discontinued?

ANSWER:

At the time of the interview, the CWD should inform the applicant that the elder mother must be part of the household and request verification. After explaining the regulation, the applicant may withdraw the application or be given 30 days to provide all verification in the food stamp household. If the household fails to provide the required information to determine eligibility for the 21 year old, the two year old and the elder mother, deny the application for "failure to provide" information necessary to determine eligibility for benefits; see MPP section 63-301.42

EXPEDITED SERVICE DETERMINATION BASED ON ACTUAL OR AVERAGE INCOME

SCENARIO:

There seems to be a discrepancy regarding whether or not actual income or averaged income is used when determining entitlement to Expedited Services (ES).

The customer applied in May 2008. At the time of application, the household had actual earnings and resources that resulted in more than monthly mortgage and utilities. However, if the income was averaged for this quarterly reporting household, the combined income and resources were less than the monthly mortgage and utilities.

QUESTION:

Which is correct when determining ES entitlement, averaged income or actual income?

ANSWER:

When a household applies for ES, the CWD shall prospectively determine ES food stamp eligibility for the month of application and shall consider the household's actual reported monthly income. MPP section 63-301.5 refers to actual income and resources in the application month. Actual income determines the need for ES on a prospective basis. There are no QR regulations that indicate ES is determined based on averaged income. Once ES is determined, using the prospective month's income, the CWD will then average the anticipated income over the current QR quarter to determine the actual benefit amount.

APPLICATION – MINIMUM ALLOTMENT AT APPLICATION (\$10 OR \$14)

QUESTION:

With the minimum issuance increased from \$10 to \$14 with passage of the Farm Bill of 2008 and from \$14 to \$16, with the American Recovery and Reinvestment Act of 2009, is the minimum allotment at application \$10 or \$16?

ANSWER:

No issuance of less than \$10 shall be made in the application month. At application, the rule at MPP section 63-503.132 has not changed with passage of the Farm Bill of 2008. The section reads: "After determining the prorated allotment, the [County Welfare Department] shall round the product down to the nearest lower whole dollar. If the computation results in an allotment of less than \$10, then no issuance shall be made for the whole month."