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ARNOLD SCHWARZENEGGER  
GOVERNOR

August 13, 2009

ALL COUNTY INFORMATION NOTICE I-58-09

TO: ALL CONSORTIA MANAGERS  
ALL COUNTY WELFARE DIRECTORS  
ALL FOOD STAMP PROGRAM COORDINATORS  
ALL QUALITY CONTROL PROGRAM COORDINATORS

SUBJECT: FOOD STAMP PROGRAM (FSP), CLARIFICATION OF THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) OF 2009 OVERISSUANCE (O/I) QUESTIONS AND ANSWERS

REFERENCES: ADMINISTRATIVE NOTICE (AN) 09-36, ALL COUNTY INFORMATION NOTICE (ACIN) I-61-08, AND ALL COUNTY LETTER (ACL) 09-12

REASON FOR THIS TRANSMITTAL
<input type="checkbox"/> State Law Change
<input type="checkbox"/> Federal Law or Regulation Change
<input type="checkbox"/> Court Order
<input type="checkbox"/> Clarification Requested by One or More Counties
<input checked="" type="checkbox"/> Initiated by CDSS

The purpose of this notice is to provide counties with clarification regarding overissuance (O/I) claims in the Food Stamp Program (FSP) as a result of provisions enacted with the American Recovery and Reinvestment Act (ARRA) of 2009. The attached questions and answers provide clarifications on the issues raised by counties and consortia automated systems staff.

The ARRA supplement cannot be the basis of an overissuance calculation. Therefore, in calculating O/Is, counties must use the appropriate allotment charts based on the date of the occurrence of the O/Is. For example, if an O/I occurred before April 1, 2009, use the October 1, 2008 allotment tables. If an O/I occurred or will occur after April 1, 2009, use the allotment tables issued in ACL 09-12 for April 1, 2009, until instructed to do otherwise by CDSS. With the exception of the allotment tables, all current policies and procedures still apply when calculating O/Is in the FSP, regardless of when the O/I occurred. Please refer to the answer to #13 in the attachment to this letter for a detailed explanation on O/I computations based on ARRA requirements.

If you have any question regarding the content of this notice, please contact Rosie Avena of the Food Stamp Branch, Policy Implementation Unit, at (916) 654-1514 or by e-mail at [rosie.avena@dss.ca.gov](mailto:rosie.avena@dss.ca.gov).

Sincerely,

**Original Document Signed By:**

CHRISTINE WEBB-CURTIS, Chief  
Food Stamp Branch

Attachment

**Food Stamp Program (FSP)  
American Recovery and Reinvestment Act of 2009 (ARRA)  
Overissuances (O/I)  
Questions and Answers**

**Sec. 101 (b) Requirements for the Secretary (Administrative Requirements)**

Sec. 101 (b) 4 disregards the additional amount of benefits that a household receives as a result of this section in determining the amount of overissuances under section 13 of the Food and Nutrition Act of 2008 (7 U.S.C. 2022)

**Question 1:**

How are O/Is computed effective April 1, 2009 under ARRA?

**Answer:**

To arrive at the O/I amount, subtract the amount that the household should have received from the amount the household did receive using the April 1, 2009 issuance tables. Regardless of the stimulus amount, this calculation method will provide the correct O/I amount. Refer to the answer in #13 for more clarification on how to compute O/Is.

**Question 2:**

Who are the affected populations for O/Is, i.e., applicant households who apply for food stamp benefits on or after April 1, 2009; ongoing, i.e., pre-April 1, households; any food stamp household who receives a benefit and has a claim established for April 1, 2009 or later; other?

**Answer:**

This ARRA provision does not distinguish between populations of households. The provision applies to all O/Is which occurred during months a household received the ARRA benefit increases. If a household received the ARRA increase early (in March), the provision would not apply. The provision applies during the time the ARRA benefit is in effect.

**Question 3:**

If an O/I is recorded prior to the April 2009 allotment amounts' being issued, should the household be issued the full supplement and not have any of the supplemental food stamp benefits applied as an offset to the O/I generated in April 2009?

**Answer:**

Yes, the household should be issued the full ARRA supplement and the county should follow current regulations of recoupment percentage calculation based on the benefit amount for the month of recoupment.

**Question 4:**

Is there a hold-harmless period for Quality Control (QC) errors regarding claim determinations and collections?

Attachment

**Answer:**

No. Only variances in the amount of authorized benefits will be excluded. This is limited to miscalculated new allotments and does not include errors in determining O/I amounts.

**Question 5:**

For counties that show the claim calculation in its notice of action (NOA), how is the NOA to be completed if the issued allotment amount is based on the April 2009 tables, yet the O/I claim amount and collection amount is based on the October 2008 tables?

**Answer:**

As noted, ARRA does not affect the recoupment process. All NOAs of O/Is must include information on how the claim was calculated. NOA procedures should be followed in accordance with MPP 63-801.431(a).

**Question 6:**

Does this population of O/Is need to be reported separately on the FNS-209 Report?

**Answer:**

There is nothing in ARRA about any special reporting requirements that would involve the FNS-209; continue standard FNS-209 reporting.

**Question 7:**

Will counties be allowed to waive implementation of the ARRA O/I process until Food and Nutrition Service (FNS) answers all questions on ARRA O/Is?

**Answer:**

We are unable to approve a waiver as the April 1, 2009 implementation date is in statute.

**Question 8:**

Is an O/I recoupment based on the benefit received in the month the O/I occurred, or is it adjusted monthly based on the monthly or anticipated monthly benefit amount?

**Answer:**

Recoupment rules were not affected by ARRA. The recoupment percentage calculation is based on the benefit amount for the month of recoupment.

**Question 9:**

When the COLA for October 2009 is released and if benefits are increased then, would the increased benefit amount for April 1, 2009 be reduced by the COLA increase in October for purposes of computing an O/I?

**Answer:**

At this point in time, it is not known if the ARRA benefit increase provision will terminate on September 30, 2009. FNS will be providing more information on this issue prior to the end of September and CDSS will relay it to counties if there are any changes to policy apart from the instructions provided via these questions and answers. In addition, it is highly unlikely that an October 2009 COLA will increase food stamp benefits to a level beyond the levels set by ARRA.

**Question 10:**

Does this provision affect recoupment of benefits?

**Answer:**

No. The law does not affect the rules of recoupment. FSP regulations describe the allotment reduction (recoupment) policy as the county's collecting a percentage or specific dollar amount of monthly benefits as repayment for a claim. For an intentional program violation (IPV), a county can reduce a client's benefit by the greater of \$20 or 20 percent of the monthly allotment. For an inadvertent household error (IHE), the county can reduce a client's benefit by the greater of \$10 or 10 percent of the monthly allotment; and for an agency error, the county can reduce the allotment by \$10 or 5 percent, whichever is greater (Lomeli v. Saenz).

**Question 11:**

Does this provision apply only when the county makes an error adjusting the benefit according to the new benefit for an existing case?

**Answer:**

No. The O/I provision is not specific to a type of claim but rather when the O/I occurred. The county must apply this provision to all O/I's which occurred during months that the household received the increased benefit pursuant to the ARRA benefit levels.

**Question 12:**

Will the ARRA O/I disregard end on September 30, 2009, or later?

**Answer:**

It is not yet known if the O/I stimulus disregard will end on September 30, 2009. However, counties will not be doing anything different from what they have always done to compute an O/I. It will be the same process after September 30, 2009. Refer to the answer in #13 for more clarification on how to compute O/I's.

**Question 13:**

What method should counties use to calculate an O/I in accordance with this provision?

**Answer:**

For O/I's that occurred prior to April 1, 2009, use the issuance table corresponding to when the O/I happened in the food stamp household. If an O/I occurred in March of 2008, use the October 2007 issuance tables; if the O/I occurred in January of 2009, use the October 2008 issuance tables. The O/I is the difference between what the household received and what they should have received. This is not a change from the way counties have always computed O/I's.

For O/I's occurring on or after April 1, 2009, counties are instructed to use the April 1, 2009, issuance tables and deduct what the household received from what the household should have received, which is not a change from how O/I's have always been computed. The reasoning for this is provided by the FNS treatment of the stimulus increase, which is required to be "disregarded". The stimulus increase is disregarded as follows:

**Scenario:** A four-person household received \$668 in food stamp benefits, which included an \$80 stimulus payment. Because of unreported earnings, the household was eligible to only \$530 in benefits. FNS reasons that the stimulus disregard is negated by applying the following steps:

1) \$ 668 Amount Actually Received  
    -80 Disregarded Stimulus  
    \$ 588

2) \$ 530 Correct Actual Benefit  
    -80 Disregarded Stimulus  
    \$ 450

Attachment

3)	\$ 588	After Stimulus Disregard	<b>OR</b>	4)	\$ 668	Amount Actually Received
	<u>-450</u>	Correct Benefit less Disregard			<u>-530</u>	Correct Benefit
	\$ 138				\$ 138	

Because the stimulus payment amount (\$80) is subtracted from both the amount the household received and the amount the household should have received, the \$80 stimulus increase cancels out of the equation; so the same answer is derived by subtracting the actual benefit amount received (\$668) from the actual amount the household should have received (\$530). FNS has reasoned that the requirement to disregard the stimulus increase is satisfied with the above computation where the stimulus amount cancels out of the equation and counties realize no change to the way they have always computed O/Is. Counties are instructed to use computation #4 to figure O/Is after April 1, 2009.

**Scenario:** A four-person household received \$668 in benefits in May 2009. It is later determined the household was ineligible to receive any benefit. Using #4 in the computation above, the O/I is computed by deducting what the household received from what the household should have received based on the April 1, 2009, issuance tables (\$668 – 0 = \$668 O/I).