

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



February 27, 2002

ALL-COUNTY INFORMATION NOTICE I-14-02

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 or Settlement Agreement
 Clarification Requested by One or More Counties
 Initiated by CDSS

SUBJECT: THE TREATMENT OF CHILD SUPPORT ARREARAGES IN THE FOOD STAMP PROGRAM

REFERENCE: CODE OF FEDERAL REGULATIONS (CFR) 273.9(d);
ADMINISTRATIVE NOTICE (AN) 97-17; MANUAL OF POLICIES AND PROCEDURES (MPP) 63-502.38

The purpose of this notice is to provide clarification on the existing policy regarding child support arrearages as an allowable deduction in the food stamp budget. This clarification is being issued as a result of a number of inquiries we received from some county welfare departments (CWDs).

BACKGROUND

- Federal regulations at 7 CFR 273.9(d) specify that legally obligated child support payments paid by a household member to or for a nonhousehold member, including payments made to a third party on behalf of the nonhousehold member (vendor payments) are deductible. A deduction shall be allowed for amounts paid toward arrearages. Alimony payments made to or for a nonhousehold member shall not be included in the child support deduction.
- AN 97-17 transmitting final Food Stamp Program rules (October 17, 1996 federal Register, page 54284) indicated that an obligation to pay child support may continue, even if the child or the child and other parent are in the same household as the individual paying the child support. This may occur, for example, if the child moves back and forth between parents or if the payer has a continuing obligation to make arrearage payments to the State Child Support Enforcement (CSE) agency after the family is reunited. The regulation does not prohibit allowing the child support deduction when a legally obligated child support payment was made to an individual or agency outside the household, even if the child for whom the support was paid was a household member. However, no deduction would be allowed if a child support payment is made to a household member.

- MPP 63-502.38 states that the child support deduction is the monthly amount of child support payments actually made by a household member with a legal obligation to pay child support payments to or for an individual living outside of the household. Payments are deductible only to the extent that they represent the household's child support obligation, which has been ordered by a court or administrative authority. Amounts paid toward arrearages shall be deductible.

CHILD SUPPORT ARREARAGES AS AN ALLOWABLE DEDUCTION

Based on state and federal regulations, CWDs should allow the child support deduction for an amount the household member is legally obligated to pay to or for a household member or nonhousehold member, even if the child is part of the household. This may continue as long as there is still a legal obligation to make these payments. However, child support payment made to a household member is not deductible.

Below are three examples to help clarify the policy:

1. Can child support arrearages being paid currently by the food stamp household member for children who are now in the home with the household be an allowable deduction in the food stamp budget?

Yes, a child support deduction can be allowed if the following stipulations apply: 1) the responsible parent whose child is back in the home is making the payments outside the home, e.g., local child support agency, and 2) the outstanding amount remains a legal obligation. However, if any of the funds go back into the home, these funds must then be included as income in the food stamp budget per MPP 63-502.1. [Also see 7 CFR 273.9(d)(7)].

2. Can child support arrearages being paid by the food stamp household member to another household member, such as the father, be an allowable deduction if he returns to the home?

No. Because the child's father is now a household member, no child support deduction would be allowed. However, the child support payments/arrearages from the mother to the father would be excluded as income to avoid counting it twice, as it is counted once when the wife/mother earns it. [See 7 CFR 273.9(d)(7)].

- 3. Can child support arrearages being paid to the food stamp household member by another household member be an allowable deduction? For example, a nonhousehold member (father), who has been making payments to the household member (mother) moves in with the mother and is still paying arrearages to her.**

No, a child support deduction would not be allowed if the nonhousehold member (father), who is making the arrearages to the household member (mother), is now part of the same household. However, the child support arrearages from the father to the mother would be excluded as income to avoid counting it twice, as it is counted once as other income received by the household. [See 7 CFR 273.9(d)(7)].

This notice supersedes all prior policy interpretations on the treatment of child support arrearages for food stamp purposes. If you have any questions regarding this letter, please contact Rosemary Akhidenor, Food Stamp Bureau, Policy Implementation Unit, at (916) 654-2116.

Sincerely,

Original signed by

GARY SWANSON, Chief
Food Stamp Branch