

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



July 28, 2003

ALL-COUNTY INFORMATION NOTICE I-43-03

TO: ALL COUNTY WELFARE DIRECTORS
ALL FOOD STAMP COORDINATORS

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: FOOD STAMP QUESTIONS AND ANSWERS

The purpose of this All-County Information Notice (ACIN) is to provide counties with answers to questions regarding Food Stamp Program (FSP) policy. These questions were submitted by the County Welfare Directors Association's Food Stamp Committee. The answers were then forwarded to the Committee for review and comments before being finalized by the California Department of Social Services Food Stamp Policy Bureau. As requested by the Committee, questions and answers (Q&As) are separated and categorized for ease of reference.

These answers are intended to be informative and are 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.

If you have any questions regarding the attached Q&As, please contact the FSP policy analyst assigned that area of the regulations.

Sincerely,

Original document signed by

RIGHTON YEE, Chief
Food Stamp Branch

Attachment

BUDGETING – ALLOWABLE DEPENDENT CARE EXPENSES

QUESTION #1:

What is the correct procedure for determining an allowable dependent care deduction when an ineligible noncitizen is incurring dependent care costs that exceed the maximum allowable deduction amount specified in MPP 63-1101.23?

ANSWER:

When determining the allowable deduction for dependent care when an ineligible noncitizen has income or shares in the expense, the CWD would prorate the maximum allowable dependent care deduction in accordance with MPP 63-502.372(b). For example, a family in which both parents are employed is paying \$300 for care of a 2-year old, the CWD would prorate \$175 to determine the household's share of the deduction (i.e., \$175 divided by 3 times 1 equal \$58.33).

BUDGETING – ALLOWABLE DEPENDENT CARE EXPENSES

QUESTION #2:

BACKGROUND:

A household consists of four (4) persons: A legal permanent resident (LPR) mother, who receives food stamp benefits; a 2-year old U.S. citizen child; an undocumented/ineligible noncitizen father; and an 8-year old undocumented/ineligible noncitizen child. Both mother and father need dependent care to work or to seek employment, as applicable. When an ineligible noncitizen contributes or has income, the expense is prorated in accordance with MPP 63-502.372.

QUESTION #2a:

The LPR mother is employed and pays \$100 child care for a 2-year old and \$100 child care for an 8-year old ineligible noncitizen child. The ineligible noncitizen father is seeking employment. How much dependent care would be allowed?

ANSWER:

A dependent care expense is an allowable deduction when necessary for a household member to accept or continue employment or attend school, etc. A dependent care expense is a specific deduction of an individual household member, rather than of the household as a whole. That portion of a household's allowable dependent care expense paid by an excluded household member is subject to proration. If the household shares deductible expenses with an excluded household member, only the amount paid by the household or attributed to the household is allowable.

The dependent care deduction is the actual cost not to exceed the maximum dependent care deduction for the care of a child or other dependents. The maximum dependent care deduction is \$200 a month per dependent child under two (2) years of age and \$175 a month for each other dependent, as provided in MPP 63-1101.23.

The intent of MPP 63-502.34 is to allow food stamp household members to claim a deduction for the care of a dependent who resides with a household member in order for that member to be employed, seek employment, attend school, etc. In this situation, the CWD determined that the mother needs dependent care for both children who live in the household in order for her to work. Therefore, the CWD would allow the food stamp household the entire \$200 dependent care as a deduction. Please note that, as long as the dependents are residing with the food stamp household, it does not matter if the expense is for a household member or an excluded household member.

BUDGETING – ALLOWABLE DEPENDENT CARE EXPENSES (continued)

QUESTION #2b:

The mother pays the same amount in dependent care (as provided in Q#2a above) from her earnings for the citizen child and the ineligible noncitizen child. The father has income but does not pay any dependent care. How much dependent care would be allowed?

ANSWER:

When an ineligible noncitizen shares an allowable expense with the food stamp household member(s), the expense is prorated [MPP 63-502.372]. The ineligible noncitizen is considered a contributor solely on the basis that he or she has income. In this situation, since the father has earnings, the CWD would prorate the total dependent care among the eligible household members including the ineligible household members and allow the food stamp household's share as a deduction as follows: \$200 divided by 4 times 2 equals \$100 [MPP 63-502.374(a)(2)].

QUESTION #2c:

The LPR mother and ineligible noncitizen father are employed and pool income for all household expenses. Dependent care cost is the same as provided in Q#2a above. How much dependent care would be allowed?

ANSWER:

When an ineligible noncitizen shares an allowable expense with the food stamp eligible household member(s), and the contributed amount is unknown (e.g., pooled income), the expense is prorated and the eligible household's share is allowed as a deduction [MPP 63-503.442(c)(3)]. In this situation, since the mother and the ineligible noncitizen father pool income for all expenses, the CWD would prorate the total amount of dependent care as follows: \$200 divided by 4 times 2 equals \$100.

BUDGETING – ALLOWABLE DEPENDENT CARE EXPENSES (continued)

QUESTION #2d:

The LPR mother and ineligible noncitizen father are employed and have earnings. The father pays all dependent care in the same amount (as provided in Q#2a) from his earnings. How much dependent care would be allowed?

ANSWER:

When an ineligible noncitizen pays part or all of the allowable expenses, the CWD would prorate the expenses among all household members including all ineligible household members and only allow the eligible household members' share as the deduction [MPP 63-502.372(b)]. In this situation, since the ineligible noncitizen father pays all dependent care for both children, the CWD would prorate the expense as follows: \$200 divided by 4 times 2 equals \$100.

BUDGETING – PRORATION OF INCOME OF AN INELIGIBLE NONCITIZEN

QUESTION #1:

A household consists of a drug felon mother, an undocumented/ineligible noncitizen father with income, and three citizen children. In prorating the income of the ineligible noncitizen, is the excluded drug felon included in the proration?

ANSWER:

As with the proration of deductible expenses under MPP 63-502.374, the excluded drug felon would be included in the proration of income of the ineligible noncitizen. For example, the CWD would divide the income of the ineligible noncitizen by 5 (i.e., drug felon mother, ineligible noncitizen father, and three citizen children) and then multiply by 4 (i.e., drug felon mother and three citizen children) to arrive at the amount to be counted to the food stamp household.

RESOURCE DETERMINATION – EARNED INCOME TAX CREDITS (EITC)

QUESTION #1:

BACKGROUND:

Federal EITC payments are excluded as a resource for food stamp households (whether received as lump sum or as payments) for the month of receipt and the following month, for the individual and that individual's spouse. To qualify for the Federal EITC 2-month exclusion, a household does not have to be participating in the program at the time it receives the payment [MPP 63-501.3(m)].

Federal, state or local EITC payments received by any food stamp household member shall be excluded for 12 months, provided the household was participating in the Food Stamp Program (FSP) at the time of receipt of the EITC and the household participates continuously during that 12-month period. Continuous participation includes breaks in participation of one month or less due to administrative reasons, such as delayed recertifications or missing or late CA 7 monthly eligibility report.

However, participation in the program is what determines whether the EITC is excluded for 2 months or for up to 12 months.

QUESTION #1a:

A household applies for the FSP on September 6, is determined eligible on September 18, and receives a Federal EITC payment on October 20. What exclusions apply?

ANSWER:

Since the household is participating in the FSP when the EITC payments were received (from any source), only the 12 month exclusion applies. The EITC payments can be excluded for up to 12 months as long as the household continues to participate in the program without a break.

QUESTION #1b:

A household receives a Federal EITC payment on September 2, applies for the FSP on September 6, and is determined eligible on September 18. Is the EITC excluded as a resource for September and October?

ANSWER:

The EITC is excluded as a resource for September and October. Under MPP 63-501(m)(2), this household is not entitled to the general EITC exclusion because it received the EITC payment before the household was participating in the program. If the EITC had been from a State or Local source, the household would not be entitled to any exclusion as the EITC was received before the household was participating and is not a Federal EITC.

**RESOURCE DETERMINATION – EARNED INCOME TAX CREDITS (EITC)
(continued)**

QUESTION #1c:

After the 12-month exclusion period, do EITC funds become permanently exempt regardless of the amount, or exempt only to the resource limit?

ANSWER:

EITC funds revert to non-excluded resource status after the 12-month period; funds are not excluded indefinitely. MPP 63-501.41 allows an unlimited exclusion time period for specified funds kept in a separate account, but this provision does not apply to EITC payments. To be clear, EITC payments have specified time limits for resource exclusion as indicated above.

QUESTION #1d:

If a person qualifies for the exemption due to being on aid, then goes off aid for a couple months, then reapplies, is he/she only eligible for two months of exemption, or does a new 12-month period start, or is it treated like regular resources immediately?

ANSWER:

Under MPP 63-501(m)(2), a household reapplying after a 1-month participation break would continue to receive the exemption until the 12-month period was exhausted including the break. Example: participated 6-months, 1-month break, 5-month exclusion remaining. If the break was longer than 1-month, or not due to administrative reasons, the EITC payment would revert to non-excluded resources immediately.

HOMELESS SHELTER DEDUCTION

QUESTION #1

Is the homeless shelter deduction prorated if an ineligible/excluded household member (e.g., SSI/SSP recipient) is sharing the shelter expense?

ANSWER:

The homeless shelter deduction would not be prorated. Under MPP 63-502.35, the standard is intended for homeless households who are not receiving free shelter for the entire month and either incur a shelter cost or reasonably expect to incur a shelter cost. Therefore, there should not be an adjustment made to the standard based on what a household may have to pay or expects to pay, even if the homeless household shares the shelter expense with an ineligible/excluded household member.

REDUCED INCOME SUPPLEMENTAL PAYMENTS (RISP)

QUESTION #1:

County Fiscal Letter (CFL) – 21 00/01 states that Temporary Assistance for Needy Families (TANF) funds could be used for immediate need, presumptive payments and Reduced Income Supplemental Payments (RISP). Is RISP now federally funded?

ANSWER:

The funding for RISP can be either federal TANF or state funds. The actual funding for RISP is determined at the end of the year when the yearly totals are calculated to show the share of state and federal costs. RISP payments are commingled with the standard grant expenditures and are funded accordingly. Therefore, county fiscal staff should continue to follow CFL-21 for claiming purposes. However, for food stamp eligibility purposes, RISP will continue to be treated as state funded and budgeted in accordance with MPP 63-503.232(c)(5)(B).

SPONSORED NON-CITIZEN – EXCLUSION FROM HOUSEHOLD

QUESTION #1a:

Can a sponsored noncitizen choose to be excluded from the food stamp household as described in MPP 63-300(2)(F)?

ANSWER:

Yes. Sponsored noncitizens are a subset within the noncitizen category. Noncitizens categorized as sponsored are able to choose to be excluded from the food stamp household per MPP 63-300(2)(F). This choice should be made early in the application process, i.e., before the eligibility determination is made per MPP 63-300.36. Please reference ACIN I-97-01, dated January 23, 2002.

QUESTION #1b:

If yes, what action should the CWD take?

ANSWER:

The CWD shall advise the sponsored noncitizen or any other noncitizen of the opportunity to be excluded from the food stamp household early in the application process [MPP 63-300.51(b)(4)].

When the sponsored noncitizen chooses to be excluded from the food stamp household, the CWD should not pursue any investigation or information collection regarding the citizenship status.

The CWD will include income and resources of the sponsored noncitizen or any other excluded household member as available to the food stamp household and shall be used to figure the benefits for the remaining food stamp household members in accordance with MPP 63-503.442.

QUESTION #1c:

Should the CWD pursue getting a copy of the I-863 or I-864A?

ANSWER:

No. The CWD will not pursue getting a copy of the Affidavit of Support (I-864 or I-864A). No further citizenship status investigation or verification shall be done once the sponsored noncitizen or any other noncitizen chooses to be excluded from the food stamp household [MPP 63-300.55(b)(6)].

WORK REGISTRATION EXEMPTION

QUESTION #1:

A household consists of a father, who is a full time student of higher education, a mother, who stays at home, and a child under six, for whom the mother provides care during the day. Can both parents be exempted from food stamp work registration?

ANSWER:

Yes. The mother could be designated as responsible for care of the child under age six and qualify for the exemption at MPP Section 63-407.21(d). Only one parent can claim this exemption. The father could qualify for the exemption based on half-time school attendance per MPP 63-407.21(h). In order to meet the student eligibility criteria, the father could claim that he is asserting parental control over the child per MPP 63-406.213.