

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



November 13, 2003

ALL-COUNTY INFORMATION NOTICE I-79-03

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 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 (FSPB). As requested by the Committee, questions and answers (Q&As) are separated and categorized.

These answers are intended to be informative 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 ACINs that are referenced in the responses.

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

Sincerely,

Original document signed by

RIGHTON YEE, Chief
Food Stamp Branch

Attachment

APPLICATION PROCESSING – NONCITIZENS OPTING OUT

QUESTION #1:

A household received Expedited Services (ES) and verification was postponed. Prior to completing the application process for ongoing benefits, a sponsored noncitizen household member opts out of the household. Is there an overissuance (OI) of benefits for the ES month? Is the household entitled to a ten-day notice before you can reduce the allotment?

ANSWER:

A noncitizen may choose to be excluded from the food stamp household (FSHH) under MPP Section 63-300.51(b) (4) before the eligibility determination is completed. Unless the household willfully provides false information to gain benefits to which they were not entitled, since the FSHH is determined eligible under Section 63-301.5 for ES at the time of issuance, no OI would be assessed if a noncitizen member of the FSHH later opts out after ES is granted but before the determination of eligibility is completed. In accordance with Section 63-301.545(b) and (c), the final eligibility determination for the household would then be based on the remaining household members and no ten-day notice would be required to adjust the benefits.

As a reminder, the provisions of Section 63-300.51(b) (4) only apply to non-assistance food stamp households. See ACIN I-97-01 for additional information on noncitizens opting out.

APPLICATION PROCESSING – SPONSOR’S AFFIDAVIT OF SUPPORT

QUESTION #2a:

What process would the County Welfare Departments (CWDs) follow to **verify** a Sponsor’s Affidavit of Support (I-864) under MPP Section 63-300.5(e) (8)?

ANSWER:

The Document Verification Request (INS Form G845S) and Supplement (INS Form G845), requesting the completion of item 7 – Affidavit of Support are used to verify a signed affidavit of support. INS’ Bureau of Citizenship and Immigration Services (BCIS) will provide the name, social security number, address of the sponsor, and the service receipt date.

QUESTION #2b:

What is the date needed to **identify a legally binding** Sponsor’s Affidavit of Support (I-864)?

ANSWER:

The “service receipt date” or “date received by” BCIS are the dates needed to verify a legally binding affidavit of support. An affidavit of support with service receipt date after December 19, 1997 is legally binding.

DEFINITIONS – PUBLIC ASSISTANCE HOUSEHOLD, NONASSISTANCE HOUSEHOLD

QUESTION #3:

Define Public Assistance and Nonassistance households.

ANSWER:

PUBLIC ASSISTANCE (PA) HOUSEHOLD:

- A PA household is defined as a household in which all members are receiving or authorized to receive CalWORKs benefits, including two-parent family benefits. [Section 63-102(p) (12) (a) and (b)].
- Benefits can be services, such as CalWORKs family reunification.
 - For purposes of family reunification, parents, although ineligible for cash aid, will be considered PA food stamp households based on the child(ren)'s temporary absence from the home and the parents' receipt of CalWORKs family reunification services.

NONASSISTANCE (NA) HOUSEHOLD:

- An NA household is a household in which all members are receiving food stamp benefits but none of the members are receiving or authorized to receive CalWORKs, including two-parent family benefits. [Section 63-102(n) (1)].
- A mixed household is a household in which not all members are receiving or authorized to receive CalWORKs, including two-parent family benefits; at least one member is receiving NA food stamp benefits. However, for reporting purposes, mixed households are considered NA households. [Section 63-102(m) (9)].

DEFINITIONS – CATEGORICAL ELIGIBILITY

QUESTION #4:

Define Categorical Eligibility (CE).

ANSWER:

CE means being considered eligible for food stamp benefits because of the household's eligibility for CalWORKs cash or general assistance (GA) benefits. CE only relates to federal food stamp eligibility. [MPP Section 63-102(c) (3)].

CE provides for certain eligibility factors for the Food Stamp Program to be deferred to the conferring program such as CalWORKs or GA. These eligibility factors are not re-examined to determine food stamp eligibility when a family is categorically eligible for federal food stamp benefits.

Eligibility Factors:

Categorically Eligible PA Households: The eligibility factors are defined as resources (including automobiles), gross and net income limits, sponsored noncitizen information, county residency, and social security number information. [MPP Section 63-301.72].

Categorically Eligible GA Household: The eligibility factors are defined as resources (including automobiles), gross and net income limits, sponsored noncitizen information, and county residency. Please note that social security number information shall not be accepted for food stamp eligibility without verification. [Section 63-301.822].

Examples of Households that are CE:

- Households in which all members receive or are authorized to receive CalWORKs cash or GA benefits are considered categorically eligible for federal food stamp benefits. [Section 63-102(c) (3)].
- Households in which adults are transitioning to state-only CalWORKs cash aid, due to reaching their federal TANF 60-month time limit, will remain CE. As these households will continue to receive benefits that are means-tested and primarily TANF MOE-funded, they continue to meet the CE requirements specified in All County Letter No. 99-81, dated October 5, 1999.

Examples of Households that are not CE:

CE **cannot** be bestowed upon households in which not all members of the household are receiving or authorized to receive CalWORKs or GA benefits.

DEFINITIONS – CATEGORICAL ELIGIBILITY (CONT.)

ANSWER TO QUESTION #4(CONT.):

Households can be PA households and not be CE. Households in which all members receive cash aid and/or services are considered PA. However, PA households in which all members receive cash aid but not all members of the food stamp household receive or are authorized to receive federal food stamp benefits are not CE.

- Households in which an adult(s) has timed off of federal Temporary Assistance for Needy Families (TANF) program and the state CalWORKs program.
- Mixed households.
- Households with any member(s) receiving or authorized to receive state-funded California Food Assistance Program (CFAP).
- CalWORKs family reunification parents. These individuals are not CE for food stamp benefits because they are not receiving or authorized to receive cash benefits.

ELIGIBILITY DETERMINATION – DRUG/ALCOHOL TREATMENT FACILITIES

QUESTION #5:

If a resident of a drug/alcohol treatment facility makes an application for food stamps without his or her authorized representative, what is the correct action to be taken? Is the case denied because the authorized representative has not made the application? Or is the case pending and an appointment scheduled for the client to return with his or her authorized representative?

ANSWER:

A resident of a licensed drug/alcohol treatment facility shall have their eligibility determined as an individual household. The CWD shall certify residents using the same provisions that apply to all households except the certification must be done through an authorized representative in accordance with MPP Section 63-503.472.

No, the CWD should not deny the case because the authorized representative did not initiate the application. The client has the right to apply for food stamps; he or she may not be aware of the regulations. However, the certification needs to be done through the authorized representative. The CWD should schedule an appointment with the authorized representative to ensure that the client has the opportunity to comply. If the authorized representative does not come in for an appointment, the CWD should take appropriate action.

ELIGIBILITY DETERMINATION – ELIGIBLE MONTH OF APPLICATION & INELIGIBLE SUBSEQUENT MONTH

QUESTION #6:

What process does the county follow if a household is eligible in the application month, but ineligible in the subsequent month? For example:

- 1) If the county does not have the household reapply after the month of ineligibility, what NOAs does the county send?
- 2) When does the new certification period start? What months are prospectively budgeted? When does the retrospectively budgeted cycle begin?

ANSWER:

- 1) When a household is determined eligible for the month of application and ineligible in the second month, the CWD would assign the household a one month certification (MPP Section 63-504.1). In accordance with Section 63-504.251(b), the household would be provided with a Notice of Expiration of Certification (NEC) at the time of certification. The notice approving the household's application may be combined with the NEC, or separate notices may be sent, as specified in Section 63-504.224. If the household chooses to reapply for food stamp benefits, the CWD would either deny or approve the application based upon the household's eligibility or ineligibility at that time. However, if the household does not reapply, the certification period would expire without any further action required.
- 2) If the household chooses to reapply for benefits, the application would be treated as a new application; the first month of the certification period would be first month for which the household is eligible to participate in food stamps. In this instance, if the household reapplies in the second month and the application is approved, the approval would be effective the first of the following month (i.e., third month). Therefore, the third and fourth months would be prospectively budgeted as the first two months of the new certification period. [Section 63-503.23].

TREATMENT OF INCOME – VOLUNTEER AGENCY (VOLAG) FUNDS

QUESTION #7:

A refugee family received \$1600 of reception and placement cash. Are these funds exempt for food stamps?

ANSWER:

Per Policy Interpretation 2850, these funds may be classified as a resource, excluded income, unearned income, or any excluded charitable contribution depending on the situation. Funds given directly to the household as a one-time lump sum payment would be counted as a resource per MPP Sections 63-501.111 & 63.502.2(j), regardless of how the funds were derived.

If the funds were disbursed as vendor payments for rent, clothing, etc., they would be excluded income per Section 63.502.2(b).

If the funds were given directly to the household in several payments, the funds would be unearned income in the month received in accordance with Section 63-502.141.

Also, if matching federal funds are involved, that portion of funds would be considered unearned income per Section 63-502.146.

If the funds are charitable cash contributions, the funds would be excluded income up to \$300 per calendar quarter in accordance with Section 63-502.2(c). Funds exceeding that amount per quarter would be counted as unearned income.

TREATMENT OF INCOME – GATE MONEY

QUESTION #8:

Is gate money (i.e., money given to a person leaving prison) excluded as income and treated as a resource? Or is the money considered a payment from a government sponsored source and as a result construed as a gain or benefit to the household? Would the client be allowed the \$30 deduction as infrequent income and the balance counted as unearned income?

ANSWER:

Since the payment is received one time only rather than on an ongoing basis, the gate money would be a non-recurring lump sum payment in accordance with MPP Section 63-501.111. Therefore, the money would be counted as a resource in the month it was received.

ACIN I-13-01 also addressed this issue defining a resource as a one-time payment resulting from a government policy or law.

TREATMENT OF INCOME – BASIC ALLOWANCE FOR HOUSING IN THE MILITARY

QUESTION #9:

The military is now contracting out some of their property management responsibilities. The clients' Basic Allowance for Housing (BAH) is being added as an entitlement then deducted as a "discretionary allotment." Is the BAH, that is listed as a "discretionary allotment", an excluded vendor payment?

ANSWER:

The BAH would be excluded from income as a vendor payment, if the BAH entitlement is being paid directly to the owner/agent. The allotment is used to pay for rent, and is in addition to the client's regular wages. In accordance with MPP Section 63-502.2(b) (1), if the employer pays a household's rent directly to the landlord in addition to paying the household its regular wages, this rent payment is excluded as a vendor payment.

If the client does have a choice and receives the BAH entitlement themselves instead of having it paid directly to the landlord, the entitlement would be excluded as a reimbursement for future expenses to the extent that the entitlement does not exceed the actual expenses per Section 63-502.2(g). Any portion of the BAH entitlement that is remaining after paying for housing would be considered income.

TREATMENT OF INCOME – RESPITE CARE FUNDS

QUESTION #10:

A client received money from Valley Mountain Regional Center and was given a choice of either keeping the money herself or paying someone to care for her disabled child. How are these respite care funds treated in food stamps?

ANSWER:

If the client uses the money to hire someone to care for the child and the funds are not greater than the cost, the respite care funds would be excluded from income, as a reimbursement, in accordance with MPP Section 63-502.2(g). If the client keeps the money and does not hire someone to care for the child, the respite care funds would be considered a gain or benefit to the household and be considered unearned income under this section.

TREATMENT OF INCOME – CHILD TAX CREDIT

QUESTION #11:

Clients have started reporting receipt of the \$400 per child advance payment from the US Treasury Department. Are these payments considered non-recurring lump sum payments and counted as resources or are these payments excluded for an extended period of time, such as the Earned Income Tax Credits?

ANSWER:

The \$400 child advance payment is a retroactive payment resulting from a change in the tax laws and is treated as a non-recurring lump sum payment in accordance with MPP Section 63-501.111. As a result, the child tax credit would be considered a resource for food stamp eligibility purposes.

TREATMENT OF INCOME – INCOME FROM A HOME CONSTRUCTION LOAN

QUESTION #12:

A household applied for food stamps that has a construction loan of \$275,000 for the construction of their new home. The husband is the contractor for this home and is being paid income from the loan after he proves he has worked so many hours on the construction. Is this income treated as self employment income or is the income exempt because it comes from a loan account that must be paid back?

ANSWER:

The money from the loan is excluded per MPP Section 63-502.2(f), which states that all loans are excluded from income. Even though the client is receiving funds for performing services on the home, he will have to pay the funds back since it is coming from a home construction loan. As a result, the funds will be exempt per 7 CFR 273.9(c) (4), which states that all loans, including loans from private individuals as well as commercial institutions on which repayment is deferred are income exclusions.

The money from the loan which pays for materials and subcontractor work on the house would not be counted as a resource because it becomes part of the household's intended home. The portion on the loan which goes to the contractor who is a member of the applicant household is not counted as income, but any fraction of his portion that carries over into the next month is a resource for that month.

TREATMENT OF INCOME – FUNDS IN HOUSING AND URBAN DEVELOPMENT ESCROW ACCOUNTS

QUESTION #13:

BACKGROUND:

Participants in the Family Self-Sufficiency (FSS) program, which is a part of the Housing and Development Account (HUD), can withdraw funds from the account before completing the program, with the permission from the public of housing authority, but only for purposes related to the goal of the FSS contract, such as completion of higher education (i.e., college, graduate school), job training or to meet start up expenses involved in creation of a small business.

How are funds in HUD escrow accounts treated in the Food Stamp Program?

ANSWER:

Currently, payments to the food stamp household from HUD are excluded from resource determination in the Food Stamp Program as provided in MPP Section 63-501.3(i). Since this is a unique situation where the food stamp household can actually withdraw cash from this escrow account prior to completing the program, the funds withdrawn will still be excluded because the funds withdrawn are contractually obligated for specific use and not to purchase food. Therefore, these funds are considered inaccessible and excluded from resources when determining the household's food stamp eligibility.

TREATMENT OF INCOME – HOLOCAUST RESTITUTION PAYMENTS

QUESTION #14:

Are holocaust restitution payments made to individuals who were persecuted by Nazi Germany exempt in the FS Program?

ANSWER:

As provided in MPP Section 63-501.111, these restitution payments are considered a non-recurring lump sum payment for the Food Stamp Program. It is considered a resource in the month in which it was received.

**QUESTIONS AND ANSWERS RELATED TO
THE FOOD STAMP WORK REQUIREMENTS,
WHICH INCLUDE
THE FOOD STAMP EMPLOYMENT AND TRAINING
(FSET) PROGRAM
AND
THE ABLE-BODIED ADULT WITHOUT DEPENDENTS
(ABAWDS)
WORK REQUIREMENT**

FOOD STAMP WORK REQUIREMENTS – UNEMPLOYMENT COMPENSATION EXEMPTION

QUESTION #15:

An individual applies for unemployment compensation, the application is denied, and the individual appeals the denial. Is the individual exempt from work registration during the process of appealing the denial of unemployment compensation?

ANSWER:

No. In accordance with MPP Section 63-407.2, if an individual is not exempt, he must meet the food stamp work requirements. When an individual is deemed ineligible to receive unemployment compensation, he is no longer exempt and shall be registered for work. If the hearing subsequently rules in favor of the individual, he would become exempt, in accordance with Section 63-407.21(e), from food stamp work requirements the first month he begins to receive unemployment compensation.

FSET PROGRAM – PARTICIPANT REIMBURSEMENT

QUESTION #16a:

Can a participant be reimbursed for the cost of transportation to come to the office and pick up his FSET transportation allowance?

ANSWER:

Yes. MPP Section 63-407.83 states that the CWD shall reimburse participants for costs that are reasonably necessary and directly related to participation in FSET. Travel costs to pick up an FSET allowance, such as a bus pass, is a reimbursable cost if the county requires the individual to pick up the pass in person. However, there is no regulation that requires an FSET participant to appear in person to receive transportation payments. Section 63-407.811(c) (2) specifies that necessary transportation services must be available in order to comply with the FSET program activities to which an individual is assigned. If these services are not available, the FSET participant will have good cause for not participating under Section 63-407.51.

QUESTION #16b:

Can a participant be reimbursed for transportation to bring a form to the county office that verifies his compliance with FSET workfare?

ANSWER:

Yes. In accordance in Section 63-407.83, “costs that are reasonable and necessary and directly related” to participation in the FSET program shall be reimbursed. The cost of transportation to deliver the workfare verification form is reimbursable if the county required the individual to deliver the form.

ABAWDS – FIFTEEN (15) PERCENT EXEMPTION

QUESTION #17:

An ABAWD receives food stamps for the three out of 36 month time limit and is discontinued for not satisfying the ABAWD work requirement. He moves to a remote part of the county and six months later, he reapplies for food stamps. The county designates persons in remote areas as eligible for the 15 percent exemption.

Can the 15 percent exemption be granted to an individual who subsequently reapplies after being discontinued from the food stamp program for failing to meet the ABAWD work requirement?

ANSWER:

Yes. According to MPP Section 63-410.3 in the food stamp work requirement emergency regulations (effective August 8, 2003), the county can grant the 15 percent exemption to an individual, who reapplies during the 36-month calendar in which he used his three countable months, provided the individual is otherwise eligible for food stamps.

ABAWDS – COUNTING ABAWD MONTHS: FOOD STAMP OVER ISSUANCE

QUESTION #18:

An ABAWD applies for food stamp benefits and, based on his statement that he has Title IV work study, is issued benefits as an eligible student. Subsequently, the CWD discovers that the individual was ineligible for the four months of benefits he received because he was not in work study. As a result of this discovery, the CWD establishes an over issuance for those months. In this instance, should an ABAWD tracking calendar be started and marked that the individual received three noncompliant months even though the Food Stamp Program is seeking to recover all of those months' benefits?

ANSWER:

Because the individual's claim of exemption status based on being a student (MPP Section 63-406) is false, he is subject to the ABAWD work requirement and a 36-month calendar must be retroactively established. If the individual was otherwise eligible during the four months he received food stamp benefits, an over issuance will be established for only the fourth month. This is because the individual is eligible to receive food stamp benefits for three countable months without satisfying the ABAWD work requirement. However, if the individual is not otherwise eligible, an over issuance must be established for each month of ineligibility. Because the ABAWD has used his three countable months in his 36-month calendar period, he will remain ineligible for food stamp benefits until he either qualifies for an ABAWD exemption (Section 63-410.3), meets requirements for regaining eligibility (Section 63-410.5), or the 36-month calendar ends and he reapplies (Section 63-410.1), whichever is earlier.

ABAWDS – COUNTING ABAWD MONTHS: GOOD CAUSE

BACKGROUND:

An ABAWD is participating in FSET workfare to maintain food stamp eligibility. In March, the participant is assigned to 17 hours of workfare participation. The participant completes eight hours of workfare and then has to have emergency oral surgery and is unable to perform the remaining 11 hours of workfare for March. For purposes of compliance with FSET, the participant is granted good cause based on illness in accordance with MPP Section 63-407.51.

QUESTION #19a:

Does March count as a month in which the ABAWD work requirement is not considered met since the ABAWD did not complete the workfare assignment?

ANSWER:

No. In accordance with Section 63-410.22 effective August 8, 2003, any month in which an ABAWD has good cause for not meeting his FSET assignment will count as meeting his FSET requirements as well as his ABAWD work rule for that month. This provision also applies to individuals, who have good cause, for not meeting his ABAWD 80 hours per month work rule.

QUESTION #19b:

Could the 15 percent exemption be applied to an ABAWD who has good cause for failing to participate in FSET even though the individual has not used all of his three ABAWD months?

ANSWER:

No. In accordance with Section 63-410.222 (effective August 8, 2003), a county should not use the 15 percent exemption in this situation because the ABAWD is considered to have met the work requirement since he had good cause for failing to participate. Likewise, the county should not require an individual to use his/her three consecutive countable month period as specified in Section 63-410.52.

ABAWDS – SATISFYING THE WORK REQUIREMENT

QUESTION #20:

An individual lives with a roommate and is a separate food stamp household. In exchange for her share of the rent, she baby sits 36 hours per week. Can the task of baby sitting in exchange for rent be used to meet the ABAWD work requirement?

ANSWER:

Yes. In accordance to MPP Section 63-410.211(b), baby sitting a child, who is part of another food stamp household, is considered employment for purposes of satisfying the ABAWD work requirement.