

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



May 26, 2004

ALL COUNTY INFORMATION NOTICE NO. I-34-04

TO: ALL COUNTY WELFARE DIRECTORS
ALL FOOD STAMP COORDINATORS**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 STAMPS 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 Director's 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 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 ACINs that are referenced in the responses.

If you have any questions regarding the attached Q&As, please contact the FSPB Policy Implementation Unit at (916) 654-1896.

Sincerely,

Original Document Signed ByRICHTON Yee, Chief
Food Stamp Branch

Attachment

FACE TO FACE INTERVIEW – STATEWIDE FINGERPRINT IMAGING SYSTEM (SFIS)

QUESTION #1:

If we cannot require someone to come into the office specifically for SFIS and we cannot issue benefits until Statewide Fingerprint Imaging System (SFIS) is completed, what approach do we take with households who meet the criteria to have the face to face interview waived?

ANSWER:

The policies provided in ACL 00-32 and 63-601.1 on the fingerprint and photo imaging requirements have not changed. MPP 63-504.14 requires that all eligible adult food stamp household members must be fingerprint/photo imaged as a condition of issuance of food stamp benefits. When clients are certified out of the CWD, counties should use portable SFIS equipment to ensure that the client complies with the SFIS requirement. However, the client should be allowed the opportunity of voluntarily being imaged at the CWD. Otherwise, according to 63-601.124, the CWD should attempt to obtain the fingerprint images and photo images when the household member(s) is in the office for any reason. According to the same regulation, if the office interview has been waived, the CWD shall not require the household member to make a special trip into the office solely for the purpose of SFIS compliance.

RECERTIFICATION – STATEWIDE FINGERPRINT IMAGING SYSTEM (SFIS)

QUESTION #2:

The regulations require that applicants be fingerprint/photo imaged in order to be issued food stamp benefits. Are recertifications considered new applications for Food Stamps? Are eligible adults required to be re-fingerprint imaged at recertification?

ANSWER:

W&I Code 10830 (b) (1) requires fingerprint imaging of all applicants/recipients. Since the implementation of the SFIS, all eligible adult household members applying for food stamp benefits have been required to be fingerprint/photo imaged in order for the household to be issued benefits.

Under MPP 63-601.12 & .14, when eligibility for food stamp benefits is being established, clients may be certified for a period of anywhere from one month to two years, depending on household circumstances. Prior to the end of the certification period, clients are asked to complete a recertification process in order that benefits continue uninterrupted, per MPP 63-504.61 (g). If the application for recertification is filed timely and the process completed with the client receiving uninterrupted benefits, the recertification would not be considered a new application. Since the client is not a new applicant, he/she would not be required to be re-fingerprint/photo imaged. However, if for some reason the adult household member who is required to be imaged but was not imaged when the initial application was approved or during the certification period, the county shall image that individual during the recertification process.

RECERTIFICATION – COMPLETION OF CW/SAWS 1 OR DFA 285.A1

QUESTION #3:

Since Food and Nutrition Service has clarified that a recertification is not a new application, depending on when the recertification is completed, is it necessary to get a CW/SAWS 1 or DFA 285.A1 at recertification?

ANSWER:

In regard to our answer in the preceding Question #2, the clarification referred to is a policy interpretation and does not affect the regulations for recertifications. This clarification only applies to the requirement for fingerprint imaging recipients at recertification. As indicated in the answer, due to this clarification, counties no longer are required to reimage recipients at recertification. All other recertification requirements, including the completion of the CW/SAWS 1 or DFA 285.A1, have not changed (see MPP 63-504.6).

TREATMENT OF INCOME – ANTICIPATING INCOME AND REPORTING CHANGES IN THE FOOD STAMP PROGRAM

QUESTION #4a:

Are change reporting households with earned income now limited to a six-month certification period? New regulations seem to limit these households to a six-month certification period. In the proposed regulation MPP 63-505.511 of ACL 03-47, there appears to be some county flexibility in the certification period. MPP 63-504.13 currently allows a certification period of up to 12 months for change reporting households.

ANSWER:

Yes, change reporting household with earned income are limited to a six month or less certification periods as specified in the final regulations in MPP 63-505.511.

MPP 63-504.131 does generally allow nonmonthly reporting households certification periods of up to 12 months. However, the certification period shall be assigned based on the predictability of the individual household's circumstances.

In almost all cases, change reporting households with earnings would normally be assigned certification periods of six months or less, because of their unstable household circumstances. Very few, if any, of those households would be assigned 12-month certification periods.

QUESTION #4b:

Change reporting households that report earned income are now limited to a six-month certification period. What exactly does that mean? Six-month certifications from the time they begin getting earned income? From the date they report the income? Or if there is less than six months left in their certification, do you extend the certification to six months?

If in month five a change reporting household reports the receipt of earned income, does the county have to do a recertification in month six? Or if the original recertification date is within six months, do you just do the recertification at the regular time? Or does the county push the recertification date out six months from the date reported?

ANSWER:

If a change reporting household without earnings is correctly certified for more than six months and the household begins receiving earned income during the certification period, the CWD would not shorten the certification period to six months based solely on receipt of the earned income.

TREATMENT OF INCOME – ANTICIPATING INCOME AND REPORTING CHANGES IN THE FOOD STAMP PROGRAM

When the household has its regularly scheduled recertification and is still receiving earnings, the household shall be assigned a new certification period of no longer than six months.

If a change reporting household without earnings is certified for 12 months and the household begins receiving earned income with less than six months left in the certification period, the CWD would not extend the certification period to six months.

TREATMENT OF INCOME – FLEX CREDITS

QUESTION #5:

An employer has a Cafeteria style benefit program. All health benefits and flexible spending accounts offered under the program are on a before tax basis under IRS Section 129. Employees are given enough Flex Credits to purchase medical plans at 20 percent of actual cost. Flex Credits can never leave the Cafeteria Plan in the form of cash. If an employee does not use all of their credits, any remaining unused credits default to the company at the end of the benefit year. The flex credits show up as a dollar amount as part of her gross earnings on her pay stubs. Are the Flex Credits considered part of her gross earnings in the Food Stamp Program?

ANSWER:

Per MPP 63-502.2(a), this income would be excluded because it is a “gain or benefit which is not in the form of money payable directly to the household.” The household never actually receives any funds, but instead uses credits to purchase their medical plans at 20 percent of the actual cost and then the remainder of the funds are returned to the company at the end of the year. As a result, these credits are a benefit to the household that is not in the form of money, so they would be excluded as income.

TREATMENT OF INCOME – SHELTER DEDUCTIONS

Administrative Notice 04-07 provides additional clarification for MPP 63-503.251 on allowing the shelter deduction when rent is paid in advance. FNS policy clarification provides that when a household occupies a residence that has a monthly rent structure, the monthly amount of rent should be taken into consideration each month when the shelter deduction is determined without regard to when it is actually paid.

QUESTION #6a:

The client's rental agreement requires that the client must pay rent for both the first and last month when moving into their new apartment. How would the shelter deduction be determined for this client? Would they get the shelter deduction only for the first month's rent, the combined rent amount, or the first and last month?

ANSWER:

Per 63-503.251, a deduction shall be allowed only for the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense. A shelter expense deduction is given for each month of the rental agreement because the client is on a monthly rent structure. Even though the client is paying the rent for the last month in the first month, the expense is for the last month of the rental agreement, so the deduction for the last month would be allowed.

QUESTION #6b:

The client chooses to pay a few months of rent in advance because they came into some additional money. Would the client be allowed the shelter deduction for the entire amount in that one month, each month throughout the rental agreement, or only be allowed the one month's amount as a shelter deduction and not allowed the deduction during the other month because the rent has already been paid?

ANSWER:

The shelter deduction is allowed for each month that the rent is billed regardless of when the rent was actually paid to the landlord, per 63-503.251. As a result, the client would receive a shelter deduction for every month during the rental agreement regardless if some months were paid in advance.

TREATMENT OF INCOME – SHELTER DEDUCTIONS

QUESTION #6c:

The client cannot afford to pay both the first and last month's rent, which is required by the landlord and rental agreement. As a result, the landlord allows the client to pay the last month's rent in installments. (Example – client pays one-fourth of the rent each of the following four months.)

ANSWER:

According to 63-503.251, a deduction shall be allowed only for the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense. A shelter expense deduction is given for each month of the rental agreement because the client is on a monthly rent structure. Even though the client is paying the rent for the last month in installments, the expense is for the last month of the rental agreement, so the deduction for the last month would be allowed.

TREATMENT OF INCOME – SHELTER DEDUCTION AND VENDOR PAYMENTS

MPP 63-502.2 (b) states that a vendor payment is “money that is not legally obligated to be paid to the household, but which is paid to a third party for a household expense by a person or organization outside the household.” As a result, a household with a vendor payment for their shelter expenses would not receive a shelter expense deduction, MPP 63-502.36, because the household would not have an incurred expense per MPP 63-503.251.

QUESTION #7a:

As part of the divorce agreement, the judge has ordered that the absent parent pay the mortgage payment directly to the bank each month (the combined amount includes both taxes and insurance). In addition, the absent parent has been ordered to give the client \$200 per month in direct child support. In this situation is the Food Stamp household allowed a shelter deduction? Is the only income counted to the household the \$200 per month direct child support?

ANSWER:

The payment to the mortgage company would be considered a vendor payment because it is legally obligated to the mortgage company by the court order and is not otherwise payable to the household. Therefore, the household in the above example would not be entitled to a shelter deduction per MPP 63-503.254 (a).

The \$200 a month in direct child support would be counted as unearned income to the household per MPP 63-502.144.

QUESTION #7b:

An absent parent is ordered by the court to pay \$1,000 monthly to his ex-wife and two children. The client and her husband decided that it would be easier if he paid the \$750 monthly rent and gave her the remaining \$250 per month. In this situation, since there is no court order for this arrangement, is the full \$1,000 counted as income to the Food Stamp household and is the household allowed the shelter deduction of \$750?

ANSWER:

Because the payment is legally obligated and otherwise payable to the household, it must be counted as unearned income in accordance with MPP 63-502.144 and 63-502.149. Because the husband is legally obligated to pay the money to the household and is not required to pay the rent, the household would also be entitled to the shelter deduction.

TREATMENT OF INCOME – UNEARNED INCOME FROM A COLLEGE STUDENT UNDER 18

QUESTION #8:

How is the unearned income (Disability Insurance Benefits) of a child under 18 to be treated when they are also a college student? We are not sure how to treat this income because the child is not an elementary or secondary student so their income could not be excluded per MPP 63-502.2 (i). They also are not defined as a student according to MPP 63-406.1.

ANSWER:

Since this child is in college but not yet 18 years of age, the student eligibility requirements, 63-406.1 would not apply to him. The child's income also could not be excluded under 63-502.2 (i) because that regulation provides for an exemption of "earned" income only for elementary and secondary students. Per MPP 63-502.142, disability benefits are defined as unearned income for the food stamp household, so the payments would be considered unearned income to the household. Any unearned income for all children in the household is counted as unearned income to the household.