STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

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

January 29, 1996

ALL COUNTY INFORMATION NOTICE NO. I-06-96

TO: ALL COUNTY WELFARE DIRECTORS

REASON FOR TRANSMITTAL

[ ] State Law Change
[ ] Federal Law Change
[ ] Court Order or Settlement Agreement
[X] Clarification Requested by One or More Counties
[ ] Initiated by CDSS

SUBJECT: QUESTIONS AND ANSWERS ON REGULATIONS REGARDING CHILD SUPPORT AND MEDICAL EXPENSE DEDUCTIONS

REFERENCES: ALL COUNTY LETTER (ACL) 95-49 AND ACL 95-57

This All County Information Notice responds to questions from counties regarding recent changes in the Food Stamp (FS) Program regulations as explained in ACLs 95-49 and 95-57. This letter includes questions we have received or developed up to this point, utilizing a Question and Answer (Q&A) format.

Child Support Deductions:

1.) Q. The counties would prefer that instead of a mandatory stuffer, an optional stuffer be developed for county use, which would include the information regarding medical expenses, child support deductions, and Senate Bill (SB) 35 provisions.

A. While we appreciate that this may have simplified the informing process for the counties, a combined stuffer was not possible for these three provisions, due to different implementation dates for each set of provisions.

2.) Q. M.S. 63-502.374 states that payments are deductible only to the extent that they represent the household's child support obligation which has been determined by a court or administrative authority. What is an administrative authority?

A. We have requested a definition of "administrative authority" from the Food and Consumer Services (FCS), which provided us with this terminology. They have not defined the term, but have stressed that the child support expenses must be legally obligated. All legal obligations in California are court orders (copies of which are available to payors), so the responsible parent should not have difficulty obtaining the verifying information for the county.

However, some states contiguous to California use administrative authority rather than court orders. According to our legal division, an administrative process would involve some kind of an order from an authority that has jurisdiction. Therefore, since there may be occasions when counties encounter administrative orders from another state, the language regarding administrative authority will be left in the regulations.

3.) Q. If a household pays for health insurance and the noncustodial child is included, how do we determine what portion of the cost is for the noncustodial child?

A. If a household is legally obligated to pay the health insurance premium for a nonhousehold member as part or all of its child support obligation, but the document verifying the obligation does not specify the amount of the premium for that child alone, the child support deduction should be determined by prorating the expense among all the individuals covered. This would also apply if the health insurance covers multiple children with no increase in the premium beyond a certain number of people.

4.) Q. Please define arrearages and provide some examples in the handbook section. If the client states that a certain amount each month is for arrearages, must the fact that there are arrearages be verified? How? How is a determination made that arrearages are paid up?

A. An arrearage is any overdue child support payment. In regards to the payor, it is not necessary for the counties to determine which portion of the child support being paid should be classified as a current month versus an arrearage payment. (It is an allowable deduction regardless, as long as it is court ordered.) In the unlikely event that the amount paid exceeded the amount of child support required to be paid, the payor would receive a deduction to which s/he is not entitled. As these regulations apply to the FS Program, the burden of proof is on the recipient, and we are not advocating that FS eligibility workers (EWs) track payments. If continued entitlement to the deduction appears questionable, the FS EWs can request that the payor provide verification from the Family Support agency that shows how current s/he is with her/his payments, in accordance with MS 63-300.53. It seems unlikely that a recipient would voluntarily pay excess child support in order to receive a larger child support deduction. Given the above information, it does not appear necessary to provide examples in the handbook section.

These new child support deduction regulations did not change existing FS regulations regarding income and resources. Therefore counties need to apply existing criteria to determine which definition to apply to a child support payment received by a Food Stamp Household (FSHH).

5.) Q. Currently, Unemployment Insurance Benefits (UIB) and Disability Insurance Benefits (DIB) payments are reduced to collect child support payments from noncustodial parents. In addition, wages may be garnished for this purpose. If this process is occurring, is it considered a verified child support deduction?

A. Two things are necessary to allow the child support deduction. First, there must be a legal obligation to pay the child support which specifies the amount of the obligation. Secondly, the amount actually paid must be verified.

While the reduction in UIB/DIB payments to the noncustodial parent or garnished wages of the noncustodial parent would be evident on the check stub and therefore sufficient to verify the amount of the payment, it would not necessarily indicate for whom or what the payment was made. A document which would provide more complete information would be the notice sent to the recipient explaining the reduction. If the document verifying either the reduction in UIB/DIB or the garnished wages also specified that the payment was for the child indicated in the legal obligation document, or this information could be verified in another way, the deduction would be allowed.

6.) Q. For Quality Control (QC) purposes, when a recipient provides verification of child support payments to the QC reviewer that had not previously been provided to the case worker, should such errors be considered procedural errors?

A. No variance will be cited if a recipient provides verification of child support payments to the QC reviewer that had not previously been provided to the case worker.

7.) Q. A person with a child support obligation has been disqualified for one of the three following reasons: committing an Intentional Program Violation (IPV), not complying with work requirements, or being a member of a household disqualified for failure to comply with work requirements. This person does not have discernible income of his/her own with which to meet the child support obligation. However, the obligation is being met by income received by the FSHH. Is the FSHH entitled to the child support deduction?

A. Yes. According to Federal Register, Vol. 59, No. 235, dated December 8, 1994, the intent of the child support deduction is two-fold. First, it is intended to encourage noncustodial parents to comply fully with their child support obligations. Secondly, the deduction more accurately reflects the household's reduced ability to buy food. In the above scenario, the two-fold intention of the child support deduction is being satisfied. The obligation to pay child support is being met. In addition, the household's reduced ability to buy food because of its payment of child support is being taken into consideration.

Without questioning the FSHH to determine the logistics of how the money is handled within the family, it cannot really be determined whether the disqualified member has income or not. For example, the money for the child support payment may be handed over to the disqualified member, who has the obligation, in order to make the payment him/herself. In such a situation, the disqualified member without discernible income, does in fact have income to make the payment. We are not advocating that the county eligibility worker pursue questioning to make this determination. That undertaking would be an administrative burden, and the Federal Register indicates that Congress did not want to impose an undue administrative burden on the counties.

In addition, under normal circumstances, (i.e., no excluded members due to disqualification), the FSHH's income would be considered available to all of the FSHH members. Although the parent with the child support deduction does not have income of her/his own, the income of the other FSHH members would be considered available to her/him, and therefore in that sense s/he would be making the payment from her/his own funds.

Also, although the excluded noncustodial parent has been disqualified, the remaining FSHH members continue to support him. By allowing them the child support deduction, the Food Stamp (FS) allotment will still be less than it would be if the noncustodial parent were a member of the FSHH. Thus, there will still be a penalty, but the hardship on the remaining FSHH members will not be as great. For these reasons it is appropriate to allow the child support deduction when a noncustodial parent has been disqualified for one of the three reasons indicated in this question.

8.) Q. The new regulations refer to child support being paid to or for a nonhousehold member. What is meant by a nonhousehold member?

A. The term "nonhousehold member" used in the child support deduction regulations refers to payments being made to or for a person who does not reside in the home. If the child support payment was for a child living in the home, the parent making the payment would be a custodial rather than a noncustodial parent, and the deduction couldn't be allowed.

9.) Q. If a household is entitled to Expedited Service (ES) and they do not have verification of required child support (including the amount they are obligated to pay) at the time of application, can the verification be postponed and the deduction allowed when processing the application? If so, would counties terminate the case if the verification is not provided within 30 days?

A. If the required verification of the obligated child support is not provided within the ES processing timeframe as specified in MS 63-301.541(b), verification is postponed and the FSHH is entitled to the deduction. If the verification is not

provided within 30 days, the child support deduction would be disallowed, per the new child support deduction regulation MS 63-300.51(j)(2). In this event, however, the case would not be terminated. This instruction supercedes current ES regulations at MS 63-301.545(a). The regulatory language will be amended to reflect the treatment of child support verification.

Medical Expense Deductions:

1.) Q. How should a one-time only medical expense change reported on the monthly report form during the certification period be handled for monthly reporting FSHHs?

A. Counties shall budget these one-time medical expenses retrospectively. However, recurring medical expenses must be prospectively budgeted over the course of the certification period.

2.) Q. How should a one-time only medical expense change reported on the change report form during the certification period be handled for a nonmonthly reporting FSHH?

A. Counties shall budget these one-time medical expenses according to current State regulations at MS 63-504.422(a) and 63-504.423. These regulations state that if the change would result in an increased allotment, the county shall make the change effective no later than the first allotment issued 10 days after the date the change was reported to the county. If the change would result in a decreased or terminated allotment, the county shall make the change no later than the issuance date for the month following the month in which the timely notice period expires.

3.) Q. If a change of $25.00 or less is voluntarily reported by the household, are counties required to take any action to adjust the household's allotment?

A. Yes, MS 63-504.421 requires counties to take prompt action on all reported changes, to determine if the change affects the FSHH's eligibility or allotment. Therefore if the FSHH reports a change, the county must determine the impact, if any, and make any necessary change.

4.) Q. If a change of $25.00 or less is voluntarily reported by the household, are counties required to question verification?

A. As stated in the answer to the question above, counties must act on any reported change even if it is $25.00 or less. However, verification is only required when the change is over $25.00, results in a changed allotment and/or verification already received is incomplete, inaccurate, or outdated.

5.) Q. Is the DFA 285-C a required form when Medicare premiums are verified via MEDS or IEVS?

A. No. We are revising Handbook Section 63-1230 to eliminate this requirement. This form should be given to households who are eligible for the excess medical expense deduction at application and/or recertification, and/or if a FSHH reports a change during the certification period. However, if new information about Medicare premiums is received from MEDS or IEVS during the certification period, the CWD must wait until the FSHH's recertification to verify these new expenses with the FSHH. The new Federal regulations emphasize that the county shall not contact the FSHH during the certification period to request or verify any information.

If you have any further questions, please contact Mr. Bill Shaw of the Food Stamp Program Bureau at (916) 654-1459.

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