

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



December 16, 1997

ALL COUNTY INFORMATION NOTICE NO. I-77-97

TO: ALL COUNTY WELFARE DIRECTORS

REASON FOR TRANSMITTAL

- ☐ State Law Change
- ☐ Federal Law Change
- ☐ Court Order or Settlement Agreement
- ☐ Clarification Requested by One or More Counties
- ☒ Initiated by CDSSe

SUBJECTS: 1) DISCLOSURE OF INFORMATION TO UNITED STATES CONSULATE GENERAL OFFICES AND 2) REPAYMENT FOR LEGITIMATE FOOD STAMP BENEFITS BY ALIENS OR OTHERS

DISCLOSURE OF INFORMATION

Information has been received from the United States Department of Agriculture, Food and Consumer Service (FCS), with regard to various United States Consulate General Offices seeking information to determine whether applicants or sponsors of applicants for immigration are current or former recipients of food stamp benefits or whether they owe debts to the program. The Consulate General Offices point out that the Immigration and Nationality Act requires them to refuse visa applications of any alien who they believe is likely to become a public charge.

While the desires of the Consulate General Offices to fulfill the requirements of their authorizing legislation are appreciated, FCS believes that the Food Stamp Act does not permit disclosure of the requested information to Consulate General Offices. County Welfare Departments (CWDs) are not required to contact households (HHs) for disclosure authorization, but may honor written requests from HHs who wish to disclose information. Therefore, unless a written authorization is received from the HH, CWDs may not disclose to Consulate General Offices payment information concerning current or former recipients.

REPAYMENT OF BENEFITS

A related issue raised by the Consulate General Offices concerns how applicants for immigration can make restitution or repay benefits that created a public debt or repay benefits to which the applicant was not legally entitled. FCS is aware of several instances where state agencies have received repayments for legitimate food stamp assistance from aliens living

abroad. It is believed that a change in the immigration law may be triggering the payments from aliens seeking to re-enter the country.

The following guidance is being provided in case a CWD receives a request or an actual check from an alien (or alien's sponsor) to repay legitimate food stamp benefits previously issued to the alien or benefits to which the alien was not legally entitled.

Legitimate food stamp benefits do not need to be repaid, but benefits to which an individual was not entitled are to be repaid. Payment of a valid claim shall continue to be accepted and applied to the outstanding claim. If there is no outstanding claim, but the individual indicates that they wish to repay benefits to which they were not entitled, an inadvertent household error (IHE) claim shall be established (unless the CWD has enough information to pursue a disqualification for an intentional program violation [IPV]) and the payment shall be applied to the claim and reported on the FCS-209. The appropriate retention for the IHE or IPV claim collection applies.

If a CWD receives a payment for legitimate benefits from an alien living outside the country (and there is no indication that the benefits were not legitimate), the CWD shall return the payment and inform the alien that he or she does not owe anything (see Attachment I). Also, the CWD shall enclose a release form (see Attachment II). If he/she wishes to make a voluntary donation to the Federal Government to repay benefits previously received, the individual should complete and sign the release form and return it to the CWD for initial processing, along with the donation made payable to FCS.

The release form indicates that the signer understands that there is no debt, is relinquishing all rights to the donated funds, understands that the donation to FCS is not returnable, and agrees that the funds are donated with no expectation of something in return from any governmental entity.

Only after a release form is signed by the payer should the donation be accepted by the CWD on behalf of FCS when there is no outstanding claim. Any such donation shall be forwarded with an explanatory letter and a copy of the signed release form to the following FCS regional office:

United States Department of Agriculture
Food and Consumer Service
Western Region
550 Kearny Street, Room 400
San Francisco, California 94108-2518

The CWD may notify the appropriate Consulate General's Office of the donation only if authorized in writing by the HH.

Since the payment is a donation rather than repayment of a claim, the CWD is not required to determine the actual benefits received in order to compare the amount against the

donation. These donations are not to be reported on the FCS-209 and there is no CWD retention on donations intended to repay legitimate food stamp benefits.

INFORMING NOTICE AND RELEASE FORM

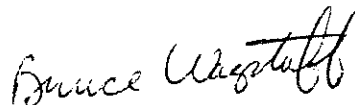
Attached are reproducible copies of the informing notice and the release form which provide information to the former recipient. The California Department of Social Services will not stock these forms.

TRANSLATIONS

For camera ready copies of the English and Spanish informing notice and release form, call the Forms Management Unit at (916) 657-1907 or CALNET 437-1907.

For camera ready copies of the Asian versions (Chinese, Cambodian, and Vietnamese) of both forms, contact the Language Services Bureau at (916) 654-1305 or CALNET 464-1305. These translations will be forwarded to the County Forms Coordinator when they are available.

If you have any questions, please contact Ernie Villalobos of the Food Stamp Program Bureau, Policy Implementation Unit at (916) 657-1680.



BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

Attachments