

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



February 11, 1999

ALL COUNTY INFORMATION NOTICE I-13-99

TO: ALL COUNTY WELFARE DIRECTORS

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: IMPLEMENTATION OF AMENDED CALIFORNIA FOOD ASSISTANCE PROGRAM (CFAP) REGULATIONS AND AMENDMENTS TO THE FEDERAL FOOD STAMP REGULATIONS BY PUBLIC LAW (P.L.)105-185, THE AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998 (AREERA)

This ACIN transmits emergency regulations, effective February 1, 1999, that implement unchanged instructions which were previously transmitted to County Welfare Departments (CWDs) through All County Letter (ACL) 98-66 and ACL 98-76.

Implementation instructions in ACL 98-66 transmitted amended CFAP criteria per Assembly Bill 2779. The instructions provided that effective September 1, 1998, a legal noncitizen legally present in the United States (U.S.) prior to August 22, 1996, regardless of age, will be eligible for CFAP if not eligible for federal food stamp (FS) benefits solely due to his or her immigration status under P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. However, the legal noncitizen must otherwise be eligible for the federal Food Stamp Program (FSP) in effect on August 21, 1996. Instructions provided that noncitizens who entered the U.S. on or after the August 22, 1996 date may also be eligible if he/she is sponsored and his/her sponsor died, is disabled, or the noncitizen is a victim of abuse by the sponsor or the sponsor's spouse.

ACL 98-76 transmitted instructions regarding provisions in P. L. 105-185, AREERA, that reinstate federal FS benefits to certain noncitizens and extend benefits to other identified groups. These regulations cover: adult noncitizens who were 65 years of age or older on August 22, 1996, children who are under 18 years of age, and benefits to the blind and disabled. These noncitizens must have been lawfully residing in the U.S. on August 22, 1996. AREERA also

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extends benefits to refugees, asylees, deportees, Cubans, Haitians and Amerasians from five years to seven years, and adds indefinite eligibility for members of identified Hmong/Laotian tribes and identified cross border Native Americans.

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

Sincerely,

Original document signed by

CHARR LEE METSKER, Chief
Employment and Eligibility Branch

Attachment

SUMMARY OF THE MODIFICATIONS AND ADDITIONS MADE TO REGULATIONS
DUE TO AB 2779 AND AREERA

MS 63-102 c (2)

This section is amended to reflect changes defining noncitizens that are eligible for CFAP caused by elimination of the age restriction.

MS 63-403.1

This section is amended to eliminate the age restriction since CFAP is no longer age restrictive, and eligibility criteria formerly in MS 63-403.12 and.13 is now in this section for clarity purposes. The acronym FS has been added after the first use of Food Stamp for consistency throughout the regulations.

MS 63-403.11

The acronym FSP is added for the Food Stamp Program for consistency throughout the regulations.

MS 63-403.111(a)

This section is amended to add the word “lawfully” to comply with federal regulation 7CFR 273.4(a)(2) in effect August 21, 1996.

MS 63-403.111(b)

This section is amended to add the phrases “and are eligible” and “lawfully admitted for permanent residence” to comply with federal regulation 7CFR 273.4(a)(3) in effect August 21, 1996.

MS 63-403.111(d)

This section is amended to replace the term refugees with asylees to comply with federal regulation 7CFR 273.4(a)(5) in effect August 21, 1996.

MS 63-403.111(g)

This section is amended to add the word “and” for clarity purposes due to the repeal of MS 63-403.111(h) and (j).

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MS 63-403.111(h)

This section on noncitizens is repealed in order to comply with the United States Department of Agriculture (USDA) Food and Consumer Service (FCS) Federal Register, Vol. 61, No. 202, dated October 17, 1996 which removed this provision.

MS 63-403.111(i)

This section is renumbered to MS 63-403.111(h) for clarity, repealing the previous MS 63-403.111(h).

MS 63-403.111(j)

This section concerning noncitizens who were lawfully admitted for temporary residence as special agricultural workers is repealed in order to comply with the USDA's/ FCS's Federal Register, Vol. 61, No. 202, dated October 17, 1996 which removed this provision.

MS 63-403.112

This section is amended to change the cross-reference eligibility criteria to MS 63-403.111(a) through (h) for clarity purposes caused by the repeal of MS 63-403.111(h) and (j).

MS 63-403.12 and .13

These regulations are being repealed and the provisions in them relocated to MS 63-403.1 in order to clarify that these are initial eligibility criteria.

MS 63-403.12 et. Seq.

These sections provide the exception criteria noncitizens must meet if they entered the U.S. on or after August 22, 1996 and are adopted in order to comply with Welfare & Institutions Code Sections 18930(b)(2), (4), and (5). Included is the definition of abuse.

MS 63-403.2

This section is amended in order to replace the term Food Stamp Program with the acronym FSP and to add a cross-reference to the new CFAP work requirements.

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MS 63-403.3

This section provides the new mandate that CFAP recipients not receive more food stamp benefits than they would have if they had remained eligible for the federal FSP, and to also include the FSP acronym for consistency throughout the regulations.

MS 63-405

This section has been restructured in order to add the new provisions mandated by P.L. 105-185, AREERA, and to more clearly reflect Sections 402 and Section 431 of P.L. 104-193, PRWORA.

MS 63-405.1

This section clarifies that qualified noncitizens, as set forth in MS 63-405.11, may be eligible for federal food stamps if they also fit one of the criteria of MS 63-405.12 or .13.

MS 63-405.11

This section is adopted to identify the criteria for a noncitizen to be considered a qualified noncitizen, and moves the lawful permanent residence provision to MS 63-405.111.

MS 63-405.111

This section has been amended to combine the provision for lawful permanent resident status and acceptable Immigration and Naturalization Service (INS) documentation to comply with the overall restructuring of MS 63-405.

MS 63-405.112 through .118

These sections are amended and restructured to provide a complete list of qualified noncitizens and acceptable INS documentation in order to comply with amended Section 431 of P.L. 104-193, PRWORA. Other provisions previously found in this section have been moved to other appropriate sections.

MS 63-405.12 through .19

The previously contained provisions have been repealed and section 63-405.12 is restructured to provide a complete list of time limited food stamp eligibility criteria in order to comply with amended Section 402(a)(2)(A) of P.L. 104-193, PRWORA, and Title V, Section 503 of P.L. 105-185, AREERA.

MS 63-405.13, and .131 through .136

These sections are adopted to provide a complete list of food stamp eligibility criteria not time limited in order to comply with Section 402(a)(2)(B) and (C) of PRWORA and P.L. 105-185, AREERA, which amends P.L. 104-193, PRWORA, by adding Sections 402(a)(2)(F), (I) and (J).

MS 63-405.2, .21 et seq., and .22 et seq.

These sections are adopted in order to comply with P.L. 105-185, AREERA, and provide three new types of noncitizens who may be eligible for FS benefits for an indefinite period of time: 1) identified Hmong and Highland Laotian tribe members, 2) identified American Indians born in Canada, and 3) other identified cross-border Native Americans who are entitled to cross into Canada or Mexico.

MS 63-405.3 et seq.

This section has been restructured for clarity purposes and contains the eligibility criteria for veterans previously contained in MS 63-405.112(f). Reference to unremarried surviving spouse of a deceased veteran is also included in order to comply with amended Section 402(a)(2)(C) of P.L. 104-193, PRWORA.

MS 63-405.4 et seq.

This section has been restructured to include requirements necessary for a noncitizen to be credited with 40 quarters of work that were previously contained in MS 63-405.112(g), and to replace the word “alien” with the word “noncitizen” for clarity purposes and regulation consistency.

MS 63-405.5 et seq.

These sections are adopted to provide a summary of the eligibility criteria needed for a battered noncitizen to be qualified for the federal FSP.

MS 63-405.6

This section is part of the restructuring of MS 63-405 with no regulatory changes involved.

MS 63-405.7 through .74

This section is amended to delete the phrase “for a period of three years from the noncitizen’s date of entry or date of admission as a lawful permanent resident,” in order to comply with the Federal Register, Vol. 62, No. 202, dated October 20, 1997 which amends sponsored noncitizens INS regulations.

MS 63-405.8, .81, and .811 through .813

These sections are restructured and amended to change “person” to “household member,” add the acronym for the Food Stamp Program, and add the phrase “for any household member” for clarity purposes.

MS 63-411 (Title) and 63-411.1 et seq.

These sections establish work requirements which nonexempt CFAP recipients must meet as a condition of eligibility and are adopted in order to comply with Section 18930.5 of the Welfare and Institutions Code, added by AB 2779, Chapter 329, Statutes of 1998, Section 35.

MS 63-411.11

This section specifies that CFAP recipients who also receive cash assistance under the CalWORKs program must comply with Welfare To Work (WTW) requirements in accordance with Welfare and Institutions Code Section 18930.5(a)(1), as added by AB 2779, Chapter 329, Statutes of 1998, Section 35.

MS 63-411.12 et seq.

These sections require nonCalWORKs CFAP recipients, including persons under WTW sanction, to work in subsidized or unsubsidized employment and are adopted to comply with Welfare & Institutions Code Section 18930.5(a)(2), as added by AB 2779. Also included is a definition for employment.

MS 63-411.2 et seq.

These sections identify CalWORKs and non-CalWORKs CFAP recipients who are exempt from work requirements in order to comply with Welfare and Institutions Code Section 18930.5(a)(2).

MS 63-411.3 (Title) and .31

This section requires compliance with the CFAP work requirements as a condition of eligibility for non-exempt CFAP recipients.

MS 63-411.32

This section establishes a method for measuring compliance with the CFAP work requirement.

MS 63-411.33

This section clarifies that Food Stamp Employment and Training Program (FSET), Able-Bodied Adult without Dependents (ABAWD), and Voluntary Quit requirements do not apply to CFAP recipients.