



CDSS

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DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES

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EDMUND G. BROWN JR.
GOVERNOR

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

December 2, 2014

ALL COUNTY LETTER (ACL) NO. 14-90

TO: ALL COUNTY WELFARE DIRECTORS
 ALL COUNTY CALFRESH PROGRAM SPECIALISTS
 ALL COUNTY HEARINGS MANAGERS
 ALL COUNTY DISTRICT ATTORNEYS
 ALL COUNTY SPECIAL INVESTIGATION UNIT (SIU) COORDINATORS
 ALL COUNTY EBT PROJECT MANAGERS
 ALL CONSORTIUM REPRESENTATIVES
 ALL IEVS COORDINATORS

SUBJECT: **ELECTRONIC BENEFIT TRANSFER (EBT) EXCESSIVE CARD REPLACEMENT WARNING LETTER PROCESS**

REFERENCE: UNITED STATES DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICE (FNS) FINAL RULE AND INTERIM FINAL RULE 7 C.F.R. 271 (1-6) TRAFFICKING DEFINITION: ALL COUNTY LETTERS (ACL) 13-54 AND 13-89

The purpose of this All County Letter (ACL) is to provide instructions to County Welfare Departments (CWDs) and other county staff regarding changes to the current EBT excessive card replacement (ECR) warning letter process. Please note that this process only applies to CalFresh benefits issued via EBT cards. These changes are a result of a federal FNS Final Rule.

FNS made the ECR Interim Final Rule permanent, effective April 24, 2014. The FNS rule requires state agencies (CWDs in California) to monitor the frequency of requests for EBT card replacements and to send a warning letter to clients who have requested four cards in a 12-month period. If a client requests a fifth replacement card, and the CWD has reason to believe that the client is trafficking, county staff shall refer the case for investigation.

Background

Until the recent FNS ruling, the ECR process was a part of the California Integrity Plan (IP) outlined in ACL 13-54 issued July 1, 2013. The California Department of Social Services (CDSS) currently issues warning letters to any EBT cardholder who has at least one activated card replacement for four consecutive months. An activated card is one that has at least one cash or food transaction. This criterion was established by California's IP to define what is considered excessive card replacements. The warning letters are currently issued by the CDSS. Approximately 750 letters are issued statewide each month.

As a result of the federal rule change, effective January 2015, the CWDs will issue the ECR warning letters. This process is being transitioned from CDSS to CWDs, as it requires a more formal comprehensive process.

New ECR Process

Beginning 2015, the consortium or the CWDs will issue warning letters to any EBT cardholder after the fourth activated card replacement request within a 12-month period. The 12-month period for counting replacement requests is a rolling time period and is not based on calendar or fiscal year. The 12-month look back period begins with the first request for a replacement card. The first 12-month period begins January 2014 and therefore CWDs will begin to send out warning letters to EBT cardholders who have met the threshold within the last 12 months (January - December 2014). Note: Initially some counties may experience a large amount of warning letters due to the need to provide notice to all cardholders who have requested four replacement cards between January through December 2014.

The consortium will process a daily "Excessive Card Replacement Warning Letters" file and produce the warning letters for the primary EBT cardholder. The consortia shall complete these automation updates by February 2015. The warning letter should be issued as soon as administratively possible but no later than 30 days after receipt of the daily ECR file. A copy of each warning letter will be retained in the household's case file for a period of three (3) years (Manual of Policy and Procedures (MPP) Sections 23-353 through 23-356 and Section 10-119.2). Additionally, CWDs will be able to access a monthly report titled, "Excessive Card Replacement Report for FNS" from the Statewide Automated Reconciliation System (SARS) website or the Electronic Payment Processing and Issuance Control (EPPIC) administrative application. The report lists the cases which have at least four card replacements in the previous 12-month period.

The warning letter will inform the household that their EBT card replacement rate suggests that they may be having trouble with their card(s) or that there may be potential misuse of the card. The letter will also include information regarding the proper use of the EBT card and the penalties for trafficking and/or misuse of EBT

benefits. In addition, the warning letter will contain county contact information (see Attachment A-EBT 2260). The CWD can place the warning letter on county letterhead. If a warning letter is returned undeliverable, the CWD will obtain the updated mailing address and reissue the warning letter.

If the CWD suspects that the reason for the ECR is a lack of understanding about how to use or manage an EBT card, or inability to use or manage the EBT card, the CWD should educate the client on how to manage the EBT card, including individualized training, or appointing authorized representatives. Frequent requests for card replacement may be indicative of several non-fraudulent situations (i.e., need for a reasonable accommodation of a disability, frequently misplaced card, clients inability to properly use the EBT card) and these alternate reasons should be explored with the client before determining if a referral for investigation is warranted.

Referrals for Investigation

Pursuant to the new federal rule requirements, after the fifth card replacement request within a 12-month period, and if trafficking is suspected, the CWD must make a referral to the Special Investigative Unit (SIU). Trafficking means to do or attempt to do the following: buy, sell, steal, or otherwise affect an exchange of SNAP benefits issued and accessed via EBT cards, for cash, alcoholic beverages, tobacco products, firearms, ammunition, explosives or illegal drugs. (For the full definition of trafficking see 7 CFR 271.2 (1-6).) SIUs may take investigative actions to determine if there is potential trafficking, and CWDs may pursue prosecutions or administrative disqualification (in accordance with MPP Section 20-300), if applicable.

A new EBT report is being developed that will alert the CWD of the fifth card replacement. This report and its instructions will be issued under separate cover.

Note: The CWD should make a referral for investigation at any time there is reasonable grounds of a suspicion of fraud even if the individual has not exceeded the ECR threshold. Reasonable grounds includes when an eligibility worker's (EW) observation of conditions, which, based on the EW's knowledge of the case provides reasons to suspect that fraud exists or has been attempted by the recipient. ACL 13-89 issued October 31, 2013 provides guidance to CWDs regarding appropriate steps to take prior to making a referral for investigation. CDSS strongly encourages counties to work with their SIU's to determine appropriate referrals of investigation.

CAMERA READY COPIES AND TRANSLATIONS

For camera-ready English copies of form EBT 2260, contact the Forms Management Unit at fmudss@dss.ca.gov. If your office has internet access you may obtain these forms from the CDSS webpage at:

http://www.dss.cahwnet.gov/cdssweb/FormsandPu_271.htm.

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When all translations are completed per MPP Section 21-115.2, including Spanish forms, they will be posted on an on-going basis on the CDSS webpage. Copies of the translated forms can be obtained at: http://www.dss.cahwnet.gov/cdssweb/FormsandPu_274.htm. For questions on translated materials, please contact Language Services at (916) 651-8876. Until translations are available, recipients who have elected to receive materials in languages other than English should be sent the English version of the form or notice along with the GEN 1365-Notice of Language Services and a local contact telephone number.

The CWDs shall ensure that effective bilingual services are provided. This requirement may be met through utilization of paid interpreters, qualified bilingual employees, and qualified employees of other agencies or community resources. These services shall be provided free of charge to the applicant/recipient. In the event that CDSS does not provide translations of a form, it is the CWD's responsibility to provide the translation if an applicant or recipient requests it. More information regarding translations can be found in MPP Section 21-115.

If you have any questions regarding the new ECR warning letter process, please contact the EBT Unit (916) 654-2125. If you have a specific question related to the referral for investigation process, please contact CDSS' Fraud Bureau staff at (916) 653-1826.

Sincerely,

Original Document Signed By

TODD R. BLAND
Deputy Director
Welfare to Work Division

Attachment

Date _____

Client (head of household) name

Address

City, State and Zip

Household number/County case number

Dear _____

Our computer records show that you have used four or more new Electronic Benefit Transfer (EBT) cards within the past 12 months. This shows that you may be having a problem with your EBT card and/or there is possible misuse of your CalFresh benefits. You can use the same EBT card every month for as long as you get your food benefits. If you are having a problem with your EBT card, please call the toll free EBT Customer Service Helpline at 877-328-9677 or contact your county worker to learn how to use your card.

It is against the law to do or attempt to do the following: buy, sell, steal or trade EBT cards or CalFresh benefits. All EBT sales and card replacements are monitored by computer. We do this to make sure cards are used correctly and to protect the CalFresh program from abuse. Based on those computer records, we may investigate any misuse of your EBT card. If you are found responsible for the misuse of your EBT card, your benefits may be stopped, you may have to repay benefits, you may be fined, or sent to jail or prison.

To keep your CalFresh benefits, you are reminded that they may only be used to buy food that you and your household eat, or seeds to grow your household's food. You may keep using your EBT card for these purposes. This letter does not change your CalFresh benefits, but the county will put a copy of this letter in your case file.

You don't need to do anything now except make sure you use your benefits correctly. If you have any questions about this letter, please contact _____.
(county contact telephone number)