



CDSS

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REASON FOR THIS TRANSMITTAL

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

January 27, 2017

ALL COUNTY LETTER 17-09

TO: ALL COUNTY WELFARE DIRECTORS
 ALL CALFRESH PROGRAM SPECIALISTS
 ALL CALWORKS PROGRAM SPECIALISTS
 ALL CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI) CONTACTS
 ALL QUALITY CONTROL COORDINATORS
 ALL CONSORTIA REPRESENTATIVES

SUBJECT: **CALFRESH ELIGIBILITY AND SUPPLEMENTAL SECURITY INCOME (SSI) SUSPENSE STATUS**

REFERENCE: CFR TITLE 7 [SECTION 273.20](#); USC TITLE 7 [SECTION 2015\(g\)](#); ACWDL [SEPTEMBER 1, 2016](#); MPP [63-503.44](#); ACL No. [12-25](#)

The purpose of this letter is to inform County Welfare Departments (CWDs) of a recent change to CalFresh eligibility restrictions on SSI recipients, due to the outcome of the *Hector Riojas v. United States Department of Agriculture (USDA)* case.

Background

As described in an All County Welfare Director’s Letter (ACWDL) issued on September 1, 2016, the United States District Court – Northern District of California issued a decision in the *Riojas v. USDA* case, granting a summary judgment against the USDA. Effective August 30, 2016, individuals in California who are in SSI suspense status are no longer ineligible for CalFresh benefits.

The plaintiff in the case argued that SSI recipients whose benefits are in suspense status should be eligible for CalFresh, even if the State has chosen to implement a “cash-out” policy. The Court agreed with the plaintiff and concluded that the plaintiff was eligible for CalFresh benefits while his SSI benefits were in suspense status. On August 30, 2016, the Court issued a decision invalidating 7 Code of Federal

Regulations (C.F.R) Section 273.20(b) to the extent it provides that “in California...,once SSI benefits are received, the individual will remain ineligible for food stamp benefits, even during months in which receipt of the SSI benefits is interrupted, or suspended, until the individual is terminated from the SSI program.” The Court found that this provision is inconsistent with 7 United States Code (U.S.C). Section 2015(g).

As a result of the Court’s decision, effective August 30, 2016, individuals in California who are in SSI suspense status are not precluded from CalFresh eligibility. The decision does not confer broad based categorical eligibility (not to be confused with modified categorical eligibility) on individuals in SSI suspense status. These individuals must apply and meet normal CalFresh eligibility requirements in order to receive benefits.

For the purpose of this letter, the terms “interrupted” and “suspended” as they relate to SSI benefits have the same meaning. SSI benefits are interrupted or suspended when a recipient has not received an SSI payment regardless of the reason.

Policy Change

Effective immediately, individuals who are not receiving an SSI payment are eligible for CalFresh so long as all other eligibility criteria have been met. This includes individuals who are in SSI suspense status. Individuals receiving an SSI payment continue to be ineligible for CalFresh.

Note that individuals receiving SSI benefits in another state are eligible to receive CalFresh benefits, if otherwise eligible, until they apply for and are approved for SSI in California. Once they receive an SSI payment in California, they are no longer eligible to receive CalFresh benefits.

CalWORKs

Current CalWORKs policy remains unchanged. SSI recipients, regardless of payment status, are ineligible for CalWORKs.

Cash Assistance Program for Immigrants (CAPI)

Recipients of benefits through the CAPI, including those CAPI recipients who had been eligible for SSI prior to August 22, 1996, will be unaffected by this policy change and will continue to be eligible for CalFresh, whether they are in CAPI suspense status or not.

Retroactive Benefits

As soon as administratively feasible, but no later than two months after the release of this letter, CWDs are required to identify applications that were filed on or after August 30, 2016 and issue retroactive benefits to individuals denied CalFresh benefits solely due to their SSI suspense status. Additionally, CWDs are required to identify household members excluded solely due to their SSI suspense status on or after August 30, 2016 and, if otherwise eligible, add the member to the household and, if applicable, issue a supplemental CalFresh allotment.

If the CWD took a county initiated mid-period action on or after August 30, 2016 to discontinue an individual because they began receiving SSI, but the individual's SSI was in suspense status, the CWD must determine the individual's eligibility and, if found eligible, the household will be issued a supplemental CalFresh allotment.

SSI Payment Status Codes

Per the Social Security Program Operations Manual System (POMS), a *suspension* of SSI benefits is required when a recipient is not eligible to receive payment. Suspension is always effective the first day of the month. For example, if the effective date is January 1, that entire month of January is the first suspension month. Generally, a recipient has 12 consecutive months after the effective date of a suspension to have benefits reinstated without filing a new application if he or she is eligible again.

A Payment Status Code other than C01 (current pay) or M02 with a payment amount indicate SSI benefits have either been suspended or denied.

Note that Payment Status Code M02 does not indicate payment status. If the Payment Status Code M02 is present, CWDs must determine whether there is a payment amount associated with that particular month.

Income, Resources and Deductions

Under current CalFresh regulations, the income and resources of individuals who are ineligible for CalFresh benefits due to receipt of SSI are not considered available to the household (Manual of Policies and Procedures (MPP) 63-503.44). Household members who become eligible for CalFresh as a result of this policy change will become an included household member and their income, resources and deductions must be considered.

If a deduction was prorated because it was determined that the SSI recipient was a contributor, it is important to re-evaluate the deduction and to ensure the households is receiving the correct deduction.

Intake

At application, CWDs will need to verify whether SSI recipients' benefits are in suspense status by referring to the Payment Status Code which can be found in the Medi-Cal Eligibility Data System (MEDS). If the CalFresh applicant's SSI benefits are in suspense status, the applicant is eligible for CalFresh, so long as all other eligibility criteria have been met.

Note that for applicants entitled to Expedited Services (ES), the only verification needed at the time the application is processed for ES is identification. All other eligibility factors, including receipt of SSI and SSI payment status, can be postponed for a later time, but no later than the 30th day following the date of application.

Continuing Cases

Newly qualified individuals shall be added to the CalFresh household the month after a report is made or the change in SSI suspense status is known to the county. CWDs shall confirm that the previously excluded household member remains in the household and verify any income before recalculating household benefits. The CWD will then inform the CalFresh household of the added household member and provide timely and/or adequate notice for changes resulting in a change in the CalFresh benefit level.

Voluntary Mid-Period Report of Change to SSI Suspense Status

A change in SSI from active status to suspense status is not a mandatory mid-period report. Therefore, households are not required to report a change in SSI status mid-period. If a household that includes a previously excluded SSI recipient makes a voluntary mid-period report informing the CWD that a previously excluded household member's SSI benefits are in suspense status, the CWD must take appropriate action to add the household member and determine the household's benefit allotment for the remaining months in the payment period. The CWD will take this action effective the first day of the next month in the current payment period, with 10-day notice, or as soon as 10-day notice can be provided.

County Initiated Mid-Period Change to SSI Active Status

Per All County Letter (ACL) [12-25](#), page 67, in addition to making mid-period adjustments to benefits as a result of mandatory and voluntary recipient reports, the CWD shall act on certain changes in eligibility status at the end of the month in which timely and adequate notice can be provided, even if it results in a decrease in benefits. Receipt of SSI benefits is considered a county-initiated change in eligibility status and action on the change may occur any time during the semi-annual period. If it is known to the county, for example through a MEDS alert, that the recipient's SSI status has changed, the CWD must take action to increase or decrease benefits effective the first day of the next month in the current payment period, with 10-day notice, or as soon as 10-day notice can be provided.

Overissuance (OI) Calculations

As is current policy, a CalFresh OI is calculated by determining household circumstances, including changes that the household failed to report or that the CWD failed to act on. CWDs must establish an Administrative Error OI when retroactively adding the eligible SSI recipient whose benefits were suspended to an existing case if it is determined that an incorrect payment was previously issued. Additionally, CWDs must establish an Administrative Error OI for any mid-period county initiated action that was not acted upon timely and resulted in an incorrect payment.

Verification of SSI Benefit Suspension

CWDs will continue to verify SSI status at the time of application, SAR 7, recertification and mid-period using existing databases, such as MEDS or the Income Eligibility Verification System (IEVS).

Clients may also submit to the CWD a notice previously received from the Social Security Administration (SSA) informing them of their suspension. Keep in mind, this policy change applies to SSI benefits in suspense, regardless of the reason for the benefit suspension. The notice does not need to include a specific reason for benefit suspension in order to serve as verification.

Quality Control (QC) Procedures

No special procedures are required for these cases. QC staff will continue reviewing cases using standard review procedures in addition to the policy change transmitted in this letter.

Automation

The California Department of Social Services (CDSS) will work with the Statewide Automated Welfare Systems (SAWS) to develop an automated procedure for processing households that include a household member whose SSI benefits are in suspense status. In the interim, alternative procedures will be developed and will be communicated to the SAWS under separate cover.

If you have any questions regarding this ACL, please contact your CalFresh County Consultant or the CalFresh Policy Bureau at (916) 654-1896.

Sincerely,

Original Document Signed By:

TODD R. BLAND
Deputy Director
Welfare to Work Division