

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



August 28, 2000

ALL-COUNTY LETTER 00-59

TO: ALL COUNTY WELFARE DIRECTORS
ALL FOOD STAMP COORDINATORSSUBJECT: COMPROMISING ADMINISTRATIVE
OVERPAYMENTS LOMELI V. SAENZ COURT CASE, ACIN I-09-00**REASON FOR THIS TRANSMITTAL**

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

The purpose of this letter is to advise the counties of the settlement of the Lomeli v. Saenz court case and provide implementation instructions.

Background:

On July 2, 1998, Legal Services of Northern California sued the California Department of Social Services (CDSS) contending that it failed to inform food stamp recipients of its authority under federal law to settle or compromise a claim resulting from an administrative error overissuance. Plaintiffs further alleged CDSS was required to exercise this discretion on a case by case basis. On April 1, 1999, the Superior Court ruled in favor of the plaintiffs ordering that CDSS notify all food stamp recipients that they may request a compromise of food stamp overissuances, and ordering CDSS to exercise that discretion on a case by case basis. CDSS appealed the Superior Court's decision.

CDSS and plaintiffs then engaged in settlement negotiations, and have reached an agreement that has been approved by the Superior Court. Under the settlement agreement, all administrative error overissuances are to be recouped through a 5 percent or \$10, whichever is greater, allotment reduction for a total of up to 36 consecutive calendar months. After the 36 month period, the collection ceases and remaining balance would be forgiven or compromised.

Settlement Agreement:

In anticipation of a settlement, counties were instructed in ACIN I-09-00 to flag all cases in which a food stamp administrative error overissuance was established after February 29, 2000.

This included cases with the noticing requirements for an administrative error overissuance being met in February, and the first month of allotment reduction being in March.

The settlement agreement is effective March 1, 2000, and requires that any administrative error overissuance is to be recouped by a reduction in the allotment by 5 percent or \$10 per month, whichever is greater, for up to a total of 36 consecutive calendar months. The first month of the 36 month period is the first month the allotment is adjusted to recoup the administrative error overissuance. At the end of the period, any outstanding overissuance is forgiven. This method of recouping applies to cases that were flagged in anticipation of the settlement and will also automatically be applied to any future administrative error overissuances. The DFA 377.7D3 has been developed to reflect this method of recouping administrative error overissuances. In addition, the regulations regarding recouping of administrative error overissuances will be revised to reflect this change in procedure.

This settlement agreement does not apply to administrative error overissuances established prior to March 1, 2000, nor does it apply to former food stamp recipients who left aid having Food Stamp administrative error overissuances. In both instances, the normal collection procedures for administrative error overissuances still apply. All other collection procedures remain unchanged.

Credit for Collection at 10 percent:

Any administrative error cases, since March 1, 2000, that were flagged in anticipation of the settlement and were being recouped by having the allotments reduced by 10 percent are to be given credit for the additional 5 percent. For example, if the county collected at the rate of 10 percent for three months, i.e., March, April and May, the recipient could be given credit for six months and the county would collect for the remaining thirty month period at the rate of 5 percent.

Inadvertent Household Errors:

While the 5 percent automatic recouping does not apply to inadvertent household errors, food stamp households that have overissuances classified as inadvertent household errors should be afforded an opportunity to request a hearing to determine if

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the error may have been administrative. The DFA377.7B has been revised to inform households of this option.

If you have any questions, please contact Doris Bowers at (916) 654-0710.

Sincerely,

ORIGINAL DOCUMENT SIGNED BY

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

Attachments

COUNTY OF _____

FOOD STAMP REPAYMENT NOTICE FOR ADMINISTRATIVE ERRORS ONLY

Notice Date : _____
Case Name : _____
Number : _____
Worker Name : _____
Number : _____
Telephone : _____
Address : _____

(ADDRESSEE)

┌ _____ ┐
└ _____ ┘

Questions? Ask your Worker.

State Hearing: If you think this action is wrong, you can ask for a hearing. The back of this page tells how. Your benefits may not be changed if you ask for a hearing before this action takes place.

The County Welfare Department made a mistake.
Too many Food Stamps were issued to you.

Here's why:

You received \$ _____ in extra food stamps that were issued for the period. _____. This amount was reduced by \$ _____ because we received repayment of part of the amount owed. You now owe \$ _____.

- You do not have to use any SSI benefits you get to repay this overissuance.
- Because the county made a mistake, we will collect the above amount by reducing your monthly allotment by 5% or \$10.00 whichever is greater, for up to a total of 36 months. At the end of that period, any balance remaining on the overissuance will be forgiven and will not be collected.

Rules: These rules apply. You may review them at your welfare office: MS 63-801.22, 63-801.43, 63-801.7, Lomeli v. Saenz.

Warning: If you think this overissuance is wrong, this is your last chance to ask for a hearing. The back of this page tells how. If you stay on food stamps, the County can collect the overissuance by lowering your monthly food stamps. If you go off of food stamps before the overissuance is paid back, the county may take what you owe out of your state/federal income tax refund.

YOU MUST EITHER:

- Pay in full, or
- Sign the Repayment Agreement and pay as agreed.
 - Complete, sign and return the enclosed Repayment Agreement (DFA 377.7E).
 - Your repayment agreement will be based on your current ability to pay as figured by the county. Any changes in your ability to pay may change your monthly payments.
- If you do not sign and return the agreement within 30 days after the date of this notice, the amount of food stamps you get will be reduced to \$ _____ beginning _____.
- If you do not agree to pay, the county may use other ways of collecting the amount owed such as through the courts.
- If the county sues you for the amount due, you may also be required to pay court costs.
- If you do not pay the amount owed, the county may take your state income tax refund and/or ask the court to attach your wages or any property you own.

COUNTY OF _____

FOOD STAMP REPAYMENT NOTICE FOR INADVERTENT HOUSEHOLD ERRORS ONLY

Notice Date : _____
Case Name : _____
Number : _____
Worker Name : _____
Number : _____
Telephone : _____
Address : _____

(ADDRESSEE)

Questions? Ask your Worker.

State Hearing: If you think this action is wrong, you can ask for a hearing unless you already had a hearing on the amount you owe. The back of this page tells how. Your benefits may not be changed if you ask for a hearing before this action takes place.

You or a member of your household made a mistake.

Too many Food Stamps were issued to:

- You.
- _____, whom you sponsor.

Here's why:

You must repay the extra Food Stamps.

\$_____ in extra Food Stamps were issued for the period _____ . This amount was reduced by \$_____ because we owed the household benefits from past months or we received repayment of part of the amount owed. You now owe \$_____ .

- You do not have to use SSI benefits you get to repay this overissuance.
- You may ask for a hearing if you feel you received extra Food Stamps because the County Welfare Department made a mistake.
- If the ALJ determines the county Welfare Department made a mistake in issuing extra food stamps to you, the county will collect by reducing your monthly food stamp allotment by 5% or \$10.00 whichever is greater, for no more than a total of 36 months. At the end of that period any balance remaining on the overissuance will be forgiven and will not be collected.

Rules: These rules apply. You may review them at your welfare office: MS 63-801.21, Lomeli v. Saenz

YOU MUST EITHER:

- Pay in full, or
- Sign the Repayment Agreement and pay as agreed.
 - Complete, sign and return the enclosed Repayment Agreement (DFA 377.7C).
 - Your repayment agreement will be based on your current ability to pay as figured by the county. Any changes in your ability to pay may change your monthly payments.
- If you do not sign and return the agreement within 30 days after the date of this notice the amount of Food Stamps you get will be reduced to \$_____ beginning _____ .
- If you do not agree to pay, the county may use other ways of collecting the amount owed such as through the courts.
- If this inadvertent household error is later found to be an intentional program violation, penalties will apply even if you agree to pay back what you owe.
- If the county sues you for the amount due, you may also be required to pay court costs.
- If you do not pay the amount owed, the county may take your state income tax refund and/or ask the court to attach your wages or any property you own.

Warning: If you believe this overissuance is wrong, this is your last chance to ask for a hearing. If you stay on food stamps the county can lower your food stamps to collect the overissuance. If you go off food stamps before the overissuance is paid back, the county may take what you owe out of your income tax refund.