

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



May 18, 1987

ALL COUNTY LETTER NO. 87-73

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: IMPLEMENTATION OF FOOD STAMP OBRA AND NONDISCRETIONARY #2 - RDB #1086-46

REFERENCE: ALL COUNTY FOOD STAMP COORDINATORS' LETTER DATED 3/27/87

The purpose of this letter is to provide the county welfare departments (CWDs) with information and instructions concerning the implementation of food stamp regulation changes contained in the above referenced regulation package. Regulations have been approved by the Office of Administrative Law and were effective April 1, 1987. However, two manual sections (M.S.) were not approved and will not be implemented. These sections are: M.S. 63-502.353 (energy assistance vendor payments as shelter costs) and M.S. 63-503.254 (energy assistance vendor payments as an allowable expense). The non-implementation of these two sections does not affect the information and instructions provided in the draft copy of this All County Letter transmitted earlier via the above Food Stamp Coordinators' Letter. Copies of the adopted regulations have been transmitted to all CWDs by the Regulations Development Bureau.

These regulations implement the federal regulation changes published in Federal Register, Volume 51, No. 60, dated March 28, 1986 and Volume 51, No. 98 dated March 28, 1986. Listed below is a brief outline of the major changes. Each of these provisions is further described in Attachment 1.

- o Expands the definition of and increases the verification requirements for disabled household members.
- o Revises the categories of eligible aliens.
- o Makes minor changes to income/resource provisions.
- o Changes sponsored alien/sponsor responsibilities and sponsored alien eligibility requirements.
- o Modifies processing requirements for untimely applications for recertification and recertification interview requirements.

- o Revises the treatment of energy assistance payments and standard utility allowances.
- o Clarifies the method used to annualize self-employment income.

All the provisions contained in these regulations are effective for all new food stamp applications filed on or after April 1, 1987. Currently certified households shall be converted no later than at recertification, at the client's request or anytime a case file is reviewed if the CWD has sufficient information to process the change.

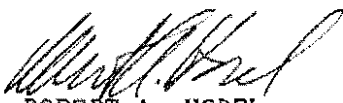
Certain nondiscretionary provisions also provide for restoration of benefits to entitled households retroactive to August 1, 1986. These provisions are outlined in Attachment 2. When determining the amount of retroactive benefits to which a household is entitled, the coupon issuance tables effective July 1, 1986 should be used for the period August 1, 1986 through September 30, 1986. The tables effective October 1, 1986 should be used to determine benefits for the period October 1, 1986 forward. These tables were released in SDSS Manual Letter Nos. FS 86-06 dated December 19, 1986 and FS 86-07 dated December 23, 1986. Additional instructions for restoring lost benefits are provided in Attachment 2.

Because of the many changes in these regulations and other recent changes, some of the FSQUADS are outdated or obsolete. Affected FSQUADS will be deleted or revised during the next FSQUAD update. Questions regarding the applicability of individual FSQUADS should be directed to the Food Stamp Policy Implementation Unit.

Included in the attachments are:

- o Summary of major changes in Food Stamp OBRA and Nondiscretionary II RDB #1086-46 (Attachment 1).
- o Instructions for restoration of benefits (Nondiscretionary provisions only) (Attachment 2).
- o Forms related information (Attachment 3).

If you have any questions regarding the implementation or restoration procedures in this letter, please contact Mike Papin of the AFDC and Food Stamp Policy Implementation Bureau at (916) 322-5330. If you have any questions regarding the forms, please contact Elizabeth Allred at (916) 323-4954.



ROBERT A. MOREL
Deputy Director

Attachments

cc: CWDA

SUMMARY OF MAJOR PROVISIONS

NONDISCRETIONARY PROVISIONS

1. Definition of Disabled M.S. 63-102(e)(1))

- o Expands the definition of disabled to include three additional categories:
 - 1) recipients of disability retirement benefits from any governmental agency because of a disability considered permanent under Section 221(i) of the Social Security Act;
 - 2) those receiving annuity payments under Section 2(a)(1)(iv) (occupational disability) of the Railroad Retirement Act of 1974 and determined eligible to receive Medicare **or** Section 2(a)(1)(v) (total disability) of Railroad Retirement Act of 1974 and determined disabled under Title XVI of the Social Security Act; and
 - 3) veterans with a non-service-connected total disability (as determined by Veteran's Administration).
- o Provides specific verification requirements for each disabled category (M.S. 63-300.519)

In addition, certain categories (under Section 221(i) of the Social Security Act) of household members can be considered disabled if they have a permanent condition that meets a level of severity established by the Social Security Administration (SSA). In verifying these disabilities, the CWD must use the list of permanent conditions provided by SSA. This list is known as the "Medical Improvement Not Expected" (MINE) list.

The MINE list was transmitted to the CWDs via All-County Information Notice I-17-87 dated March 4, 1987. Instructions for the use of the MINE list are being developed and will be provided shortly under separate cover.

Although it is anticipated that the use of this list would be limited to very few cases, in the interim, if CWDs have questions regarding actual case situations, the Food Stamp Policy Implementation Unit can be contacted.

2. Standard Utility Allowance (SUA) and Energy Assistance Payments (M.S. 63-502.36)

- o Allows households to switch from SUA to actual expenses at recertification and one additional time during each twelve months following initial certification.

- o Entitles households to the SUA when receiving energy assistance payments if they continue to incur out-of-pocket heating or cooling expenses over and above such vendor payments. In order to determine if an out-of-pocket expense has been incurred, the CWD must prorate the energy assistance payment over the season it is intended to cover.

For example, a household receives \$300 in energy assistance payments for a three month heating period. The CWD would prorate over the heating period which would average out to \$100 per month. The actual monthly heating expense for one month is \$150. Therefore, the household is incurring an out-of-pocket expense and the SUA would be allowed.

3. Annualizing Self-Employment Income (M.S. 63-503.412)

- o Clarifies current policy that self-employment income is to be calculated using anticipated earnings (not solely on the basis of prior income) if the average annualized self-employment income does not accurately reflect the household's actual circumstances (i.e., substantial increase or decrease in business).

For example, a household member is temporarily incapacitated and has to close the business for a short period of time.

4. Monthly Reporting/Retrospective Budgeting (MRRB) (M.S. 63-505.212)

- o Excludes from monthly reporting and retrospective budgeting, all food stamp households (including Public Assistance) in which all adult members are elderly or disabled and have no earned income.

If any earned income is received, the CWD should first determine if the adult member(s) is "regularly" employed before putting the household on MRRB.

For example, a client mows lawns one month, stops for a month, then mows lawns the next month. Even though the earnings are received occasionally, unless there is a contract or agreement that the client mow lawns, this would not be considered regular employment. Therefore, the household would not be subject to MRRB. The important factor is the nature of the employment rather than sole receipt of earnings.

OBRA PROVISIONS

1. Citizenship and Alien Status (M.S. 63-403.1, 403.3, 503.493)

- o Eliminates the reference to aliens admitted under Section 203(a)(7) of the Immigration and Naturalization Act from the categories of eligible aliens.

- o Makes the sponsored alien responsible for obtaining the cooperation of his/her sponsor and any required information regarding the sponsor's circumstances. If the sponsored alien refuses to cooperate, other adult members (including U.S. citizens) of the alien's household shall be responsible for providing and/or verifying required information.
- o While the CWD is awaiting the required information and/or verification, only the sponsored alien shall be ineligible to participate. If the same sponsor is responsible for the entire household, the entire household is ineligible until such time as needed sponsor information is provided and/or verified.
- o Deletes the requirement for monthly reporting by the sponsor.

As a result, the CA 72 will no longer be required for food stamps. The CA 22 will continue to be used at initial application and recertification. Income deemed available to the sponsored alien based on the CA 22 will continue at same amount per month unless a change is reported in accordance with M.S. 63-403.334.

2. Resource and Income Exclusions (M.S. 63-501.3(d), 501.3(e), 501.3(a), 501.521(d), and 502.2(j))
 - o Excludes rental and vacation homes as a resource if they are producing income consistent with fair market value.
 - o Excludes relocation payments to Navajo and Hopi Tribes as resources or income.
3. Recertification (M.S. 63-504.6)
 - o Permits CWDs to deny untimely applications for recertification either at the end of the certification period or within 30 days after the date the application was filed as long as the household has had adequate time to provide the missing verification.
 - o If the household does not appear for any scheduled interview, no further action is required unless the household requests another interview.

INSTRUCTIONS FOR RESTORATION OF BENEFITS

The following guidelines are provided to clarify the specific requirements for restoring benefits retroactive to August 1, 1986 for the Nondiscretionary provisions of these regulations. All determinations for restorations shall be completed either upon request or no later than at recertification or termination.

Provisions Requiring Restoration

The following Nondiscretionary provisions are retroactive to August 1, 1986:

o Definition of disabled (63-102.(e)(1))

Households entitled to restoration under this provision, upon verification, would be those which contained a member who:

- 1) received government disability retirement benefits as a result of a permanent disability under Section 221(i) of the Social Security Act;
- 2) received an annuity payment under Section 2(a)(1)(iv) (occupational disability) of the Railroad Retirement Act of 1974 and determined eligible to receive Medicare by the Railroad Retirement Board or received an annuity payment under Section 2(a)(1)(v) (total disability) of Railroad Retirement Act of 1974 and was determined disabled based upon criteria used under Title XVI of the Social Security Act;
- 3) was a veteran with a non-service connected total disability;

and:

Was not given disabled household status and subsequently not allowed the excess medical and/or shelter deduction resulting in a lower benefit level, or was denied or terminated because the gross rather than net monthly income eligibility standard (for elderly and disabled households) was used.

If the household does not request restoration of benefits, the CWD must identify the entitled households and determine eligibility to restoration either at recertification or termination. Such identification would include verification of the above disabled categories as required in MS 63-300.519.

- o SUA and Energy Assistance Payments (M.S. 63-502.361(a), and 502.363)

Households entitled to restoration under these provisions, upon verification, would be those that:

- 1) received energy assistance vendor payments while incurring additional out-of-pocket heating or cooling expenses but were not allowed the SUA, or
- 2) were not allowed to make a switch between the SUA and actual expenses during a 12 month period.

and:

As a result received lower benefits or were denied or terminated.

- o MRRB households (M.S. 63-505.212)

Households entitled to restoration under this provision, upon verification, would be those in which all adult members are elderly or disabled as defined in M.S. 63-102(c)(1), had no earned income and were subject to retrospective budgeting which resulted in less benefits than if prospectively budgeted.

It is anticipated, however, that due to the expected low number of entitled households, CWDs will make few restorations.

Informing Notice

An informing notice is being prepared to inform clients of the:

- Retroactive SUA provision (M.S. 63-502.363) allowing a switch between actual expenses and the SUA at recertification and one additional time during each twelve month period.
- Retroactive SUA provision (M.S. 63-502.361(a)) which allows the SUA if the household incurs an out-of-pocket heating or cooling expense in addition to energy assistance vendor payments.
- Retroactive definition of disabled provision (M.S. 63-102(e)(1) which expands the definition to include additional categories.
- Sponsored alien provision (M.S. 63-403.332) which eliminates the use of the CA 72 for food stamps.

It is anticipated that the notice will be available the first week in June 1987.

Requesting Restoration

When a household claims entitlement to lost benefits, it is suggested that the CWD use the top portion of the DFA 285-A1, Application for Food Stamps Part-1, to document the request. A separate form should be used for each county in which the household may have been entitled to benefits and from which the household is requesting restored benefits.

If a request is received for a month in which the CWD neither paid nor denied benefits to the household and it appears that the benefits were lost in another county, the CWD shall forward the request to the appropriate CWD, if known. If the appropriate CWD is not known, the household shall be advised that the request must be processed by the CWD where the benefits were lost. It is ultimately the responsibility of the household to request restoration of lost benefits from the appropriate CWD.

How to Establish Eligibility for Restoration of Benefits

The CWD shall determine eligibility by requesting from the household whatever information the CWD needs to determine eligibility and compute benefits.

If the household was initially denied without a complete application, the CWD shall update the incomplete application or request a new application reflecting the circumstances for the original month of application.

For each month during the restoration period after the original month of application, the CWD shall request any required CA 7s or change reports, as appropriate.

The household must submit complete CA 7s and all required verification. In the event that documentation (e.g., bills, payment award letter) is no longer available for the restoration period, other appropriate documentary evidence (i.e., collateral contact, affidavit) may be accepted as the required verification for the application, CA 7 or change report.

Any questionable or inconsistent information identified in this process shall be handled in accordance with regulations 63-300.53 and 63-504.34 as appropriate for the situation.

Households Determined Ineligible for Restoration

The CWD shall deny the household's request for restored benefits in writing when found ineligible. The denial section of the DFA 377.1, Notice of Action, will be used for this purpose. Use of a written notice facilitates the household's ability to request a state hearing if it disagrees with the denial as provided in M.S. 63-802.41.

Other

Additional provisions concerning notice, issuance and accounting requirements when restoring benefits are contained in M.S. 63-802 and shall apply to these restorations.

The CWD should report the activities associated with these restorations on the DFA 296 Caseload Movement Status Report in the same manner that all other restorations are reported.

FORMS RELATED INFORMATION

The following will outline the forms related procedures necessary to implement the OBRA and Nondiscretionary package.

OBRA

Sponsored Aliens

- o Deeming of income and resource amounts (M.S. 63-503.492(c))

Amend page 3 of the eligibility worker form instructions for the Alien Sponsor's Statement of Facts, CA 22(10/85), as follows:

County use section: Insert in the Food Stamp Action column this statement: "If the verification required in Question 4A was not provided, the calculated deemed income and resources amounts shall be attributed to the applicant in their entirety until such time as the verification is provided."

- o Delete the asterisks in Questions 8, 9, 10, and the asterisk and sentence at the bottom of the page.
- o Noncooperation of a sponsored alien (M.S. 63-503.493(b))

Amend page 1, Purpose, of the form instructions for the CA 22(10/85) to insert the following after the existing narrative:

For Food Stamp cases, if the sponsored alien refuses to cooperate in providing and/or verifying needed information, other adult members of the household (including U.S. citizens) shall be responsible for providing and/or verifying information required.

Until the information is provided and/or verified, any sponsored household member is treated as an ineligible alien. However, if the same sponsor is responsible for the entire household, the entire household is ineligible.

Note: The requirements of MPP Section 43-119.2 apply to the AFDC case.

- o Monthly Reporting (M.S. 63-505.3)

Amend the form instructions of the CA 72 as follows:

- Delete the phrase "...and /or for Food Stamp benefits..." in the second line of the Purpose.
- Delete all FS Manual Sections and Food Stamp Actions outlined on pages 1, 2, and 3.

o Reporting Requirements (M.S. 63-403.33)

The CA 22 coversheet will be revised to advise all food stamp households of the requirement to report the following changes in circumstances:

- change in sponsor;
- death of sponsor or sponsor's spouse;
- loss of or change in employment for sponsor or sponsor's spouse.

Monthly reporting households will be directed to report on the CA 7; non-monthly reporting households retain the same options for reporting this information within the 10 day period of the occurrence.

Notices of Action (M.S. 63-504.2)

o Recertification

Amend the form instructions for the Food Stamp Notice of Expiration of Certification, DFA 377.2(12/83), as follows: On page 1, Preparation, revise the second and third lines of point 1 to read: "...received by the household during the next to the last month of certification."

o Timely Notice Exceptions

Amend the form instructions for the Food Stamp Notice of Change, DFA 377.4(12/83), as follows: On page 1, Purpose, insert the following in the third bullet: "unless exempted from the requirements of timely notice".

NONDISCRETIONARY

Energy Assistance Vendor Payments (M.S. 63-502.353)

The form instructions for the Application for Food Stamps-Part 2, the DFA 285-A2(2/87), were revised to have the eligibility worker determine if the household receives energy assistance vendor payments. (See page 2 of Attachment 2, SUA and Energy Assistance Payments for the purpose in obtaining the information on energy assistance vendor payments.)

Elderly and Disabled - Eligibility (M.S. 63-102)

o The DFA 285-A2(2/87) was modified as follows:

- Question 9 was split into two components. Question 9A asks if anyone in the household receives disability or blindness benefits from the Social Security or Veterans Administrations; Question 9B asks if anyone receives disability **retirement** benefits from one of the governmental agency groups listed in the regulations.

- The county use only section to the right of Questions 9A/9B was amended to include disability status information.
- o The form instructions for Questions 9A and 9B for the DFA 285-A2(2/87) reflect the change in definition of and verification requirements for the elderly/disabled.
- o Until the CA 8 is revised to parallel the DFA 285-A2(2/87) questions on disabled individuals, counties shall determine if the person(s) added to the household meets the definition of elderly/disabled when no DFA 285-A2(2/87) is obtained.

Elderly and Disabled - Verification (M.S. 63-300.519)

- o The Social Security and Veterans Administrations have indicated that no modification of current county procedures to obtain verification of receipt of disability benefits is necessary. Counties will continue to use the CA 5, TPQY, SSA 1610, etc. Counties are advised to spell out in the Comments section specific verification needs not addressed or solicited elsewhere on the submitted form.

However, modification of the CA 5 is necessary for food **stamp only** cases to provide the regulatory authority regarding Social Security Numbers. Counties have the option of either:

- asterisking the SSN section and inserting, where space is available, the following language: "Providing an SSN is required by 7 U.S. Code Section 2025E; failure to cooperate may result in denial or discontinuation of aid as required by MPP 63-404 (Food Stamps)" or
- of blocking out and replacing the current narrative in the SSN section with appropriate wording.

Note: The Veterans Administration does not have medical evidence that would document whether the spouse or child has an impairment on the MINE list.

- o Counties shall use the SSA 1610 to obtain information from the Railroad Retirement Board as follows:
 - In Item 1e, include the individual's claim number in the space above the SSN, if known.
 - In Item 5, Remarks, add the following: "Please specify type of disability benefit received: occupational or total and permanent. If occupational, has eligibility for Medicare been determined? If yes, specify decision and give date."

Note: Less than 30-40% of those determined occupationally disabled are determined to be eligible for Medicare.

- o Counties must continue to give the DFA 285-C to those households who qualify or potentially qualify for the special medical deductions. Until the DFA 285-C(12/83) form and form instructions can be modified to incorporate the new eligibility and verification requirements, counties should use the following revised form instructions
 - Purpose - Revise the first sentence as follows:

(3) receiving disability retirement benefits from a governmental agency and who has a permanent disability on the Social Security Administration's MINE list; (4) a veteran determined by the Veterans Administration (VA) to be totally disabled; (5) a veteran determined by the VA to be in need of regular aid and attendance or permanently housebound; (6) a surviving spouse or surviving child of a veteran who is determined by the VA to be totally disabled; (7) a surviving spouse or a surviving child of a veteran who has a permanent disability on the Social Security Administration's MINE list; (8) receiving a disability annuity payment from the Railroad Retirement Board.
 - Insert the following in the County Use section - "Enter which definition the individual(s) meets if not receiving Title II or VA benefits." (Note: As long as the individual correctly meets the definition of disabled, no error will be charged if the form is not appropriately annotated.)
 - Revise the narrative in Question 1, sentence 3: "As appropriate, verify receipt of disability or disability retirement payments; determine if anyone has an impairment on the MINE list or has been determined eligible for Medicare by the Railroad Retirement Board; document in the County Use section if the household member has been approved for, but is not yet receiving, disability or disability retirement benefits or Medicare."
- o As indicated above in this letter, the instructions to implement the MINE list, as it pertains to the new eligibility and verification requirements, are in the process of being developed and will be issued under separate cover.