

DEPARTMENT OF SOCIAL SERVICES  
744 P Street, Sacramento, CA 95814



January 20, 1989

ALL COUNTY LETTER NO 89-08

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: IMPLEMENTATION OF CHANGES IN THE TREATMENT OF FOSTER CHILDREN AND  
FOSTER CARE PAYMENTS IN THE FOOD STAMP PROGRAM


Recent circuit court decisions in Minnesota (Murray v. USDA) and Vermont (Foster v. USDA) resulted in a policy change relative to the treatment of foster children and foster care payments. The purpose of this letter is to provide County Welfare Departments (CWDs) with instructions for implementing these changes.

Food Stamp Manual Section (M.S.) 63-402.14 currently provides that children under 18 years of age living with a member of the household who has parental control shall not be granted separate household status. Current policy also specifies that foster care payments are to be counted as income to the food stamp household (M.S. 63-502.141). The Circuit Courts concluded that foster children are "boarders" under the Food Stamp Act of 1977, as amended, and cannot be considered household members. Further, the courts concluded that foster care payments are income to the foster children, and therefore, cannot be included as income to the household caring for the child(ren), even if the payments are made to the provider.

Effective February 1, 1989, for Food Stamp Program purposes, foster children are to be considered "boarders" and eligibility established based on M.S. 63-402.3. However, M.S. 63-402.3(a) and (b) which require that a boarder pay reasonable compensation to the household for lodging and meals, and M.S. 63-402.33(a) which prohibits granting boarder status to children under 18 years of age under the parental control of an adult household member, do not apply with regard to foster children. In addition, the foster care payments must be excluded from consideration as income to the food stamp household providing the foster care. The option remains for the household to have the foster children treated as members of the household in accordance with M.S. 63-402.31. In this case, the entire foster care payment would then count as income to the household.

This policy change will be applied to new applications and households subject to recertification on or after March 1, 1989. All other affected households must be converted at the household's request or when the case is next reviewed, whichever occurs first. Since this change is effective February 1, 1989, CWDs shall provide retroactive benefits back to February 1, 1989 to all eligible households including those denied benefits after the effective date. Upon receipt of the Federal rule, State regulations will be processed.

If you have any questions, please contact the Food Stamp Policy Implementation Bureau at (916) 322-5330.



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Deputy Director

cc: CWDA