



CDSS

WILL LIGHTBOURNE
DIRECTOR

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

744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



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 15, 2011

ALL COUNTY INFORMATION NOTICE NO. I-73-11

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY IEVS COORDINATORS
ALL COUNTY SPECIAL INVESTIGATION UNIT CHIEFS
ALL COUNTY EBT COORDINATORS

SUBJECT: CALFRESH TRAFFICKING VIOLATIONS

REFERENCE: 7 U.S.C. §§ 2024(B) AND (C); 7 C.F.R. § 273.16; 7 C.F.R. § 274.1;
MANUAL OF POLICIES AND PROCEDURES (MPP), DIVISION 20,
SECTION 004; and MPP, DIVISION 16, SECTIONS 5 AND 801.

The United States Department of Agriculture (USDA), Food and Nutrition Services (FNS) has expressed a desire to further strengthen our federal-state-local collaboration to pre-empt, detect and terminate the trafficking of CalFresh/Supplemental Nutrition Assistance Program (SNAP) benefits. The purpose of this All County Information Notice (ACIN) is to provide guidance to the counties on effective coordination with California Department of Social Services (CDSS) and the federal government when trafficking is suspected.

Definition of Trafficking

Trafficking is defined as the unauthorized use, transfer, acquisition, alternation, or possession of benefits, and the presentation for payment or redemption of benefits that have been illegally received, transferred or used. (7 U.S.C. §§ 2024(b) and (c); 7 C.F.R. § 271.2; and MPP § 16-005(t)(2).) CalFresh benefits may only be used to purchase eligible food items from authorized food retailers. Trafficking of these benefits by selling or purchasing Electronic Benefit Transfer (EBT) cards for cash compromises program intent and violates federal law.

Joint Collaboration/Roles and Responsibilities

The USDA, FNS and the Office of the Inspector General (OIG), along with CDSS and local law enforcement / investigative agencies work together in a coordinated effort in eliminating CalFresh trafficking. USDA and OIG have primary responsibility for monitoring and taking

appropriate action against retailers involved in trafficking related incidents, while CDSS and County Welfare Departments (CWDs), Special Investigation Units (SIUs), or local law enforcement/investigative agencies have responsibility for monitoring and taking appropriate action against recipients who are involved in trafficking. CDSS Fraud Bureau provides technical assistance to the FNS and OIG, in addition to the CWD's SIU staff. Instances occasionally do occur where federal and state/local agencies join together to investigate retailer and/or recipient trafficking violations.

For example, when a CWD receives a report of an alleged retailer trafficking violation, the matter should be reported to the CDSS Fraud Bureau. (MPP § 16-801.5.) The Fraud Bureau will contact the OIG and FNS. However, CWDs that already have an existing working relationship with FNS and OIG may continue to work and collaborate with them directly. FNS is able to use EBT and other data to investigate the allegation and determine if administrative actions are necessary, such as suspending or eliminating the store from their list of FNS-approved retailers. At the same time, the OIG will assess the merits of the case and determine if it will be accepted for investigation and possible prosecution. CWDs may pursue their own retailer investigations if approved by FNS and OIG directly or via CDSS Fraud Bureau to ensure a federal investigation is not already in progress or is being planned.

Successful investigation practices include witness interviews, use of surveillance, and undercover investigations. The Office of System Integration's (OSI) Statewide Automated Reconciliation System (SARS) data reports are also helpful in identifying individuals who are participating in trafficking violations, as well as validating investigation outcomes that could ultimately lead to imposing intentional program violation(s) and disqualifications.

Referrals and Investigations

When a call is received from the community, either a grocery store or a concerned citizen witnessing questionable behavior surrounding the use of EBT cards, CWDs are most often the first to receive these alleged recipient and/or retailer trafficking violations. When CDSS receives them, they are forwarded to the CWD for action. In addition, CWDs are encouraged to be aware of advertisements to sell or redeem EBT cards on social media websites. USDA, FNS Administrative Notice (AN) 12-01, released on October 5, 2011, provides guidance regarding the sale of, or intent to sell, CalFresh/SNAP benefits on social media websites. For more information, AN 12-01 can be found at www.fns.usda.gov.

It is the responsibility of CWDs to process fraud referrals through local SIUs for investigation (MPP § 16-801.1.), and cases of recipient trafficking violations are required to be investigated according to CDSS' Manual of Policies and Procedures (MPP).

Fraud referrals must be made when there are reasonable grounds to suspect trafficking violations. MPP § 20-004.1 states:

"... a complete and detailed request for investigation shall be made to the Special Investigation Unit (SIU) when there are reasonable grounds to suspect that a crime (i.e., fraud, perjury, embezzlement, trafficking, etc.) against a public social services program has occurred..."

Reasonable grounds include, but are not limited to:

- situations involving trafficking violations;
- an allegation of fraud is received by the CWD from any government agency; and
- a public complaint containing facts which allege a crime (i.e., fraud, perjury, trafficking, etc.) against a social services program.

(MPP § 20-001.1.)

Intentional Program Violations

CWDs are required to investigate any case of an alleged Intentional Program Violation (IPV) via their SIU, District Attorney's (DA's) Office, or local law enforcement agency, as outlined in 7 C.F.R. § 273.16 (a)(1) and MPP § 20-300.1. Fraud requires that there be intent to defraud. It does not cover mistakes, misunderstandings, etc. An IPV is defined as having intentionally:

1) Made a false or misleading statement, or misrepresented, concealed or withheld facts; or

(2) Committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).

(7 C.F.R. § 273.16(c).)

CWDs should be aware of, and take into consideration, issues such as limited English proficiency, domestic violence, advanced age, and learning and mental health related disabilities that may prevent or limit a recipient from understanding the rules or questions of investigators or being able to participate in the investigation (as might be the case of a domestic violence victim). These considerations should be weighed prior to concluding that there is reasonable suspicion that an intentional act may have occurred. Free translation services must be made available during all fraud investigations when the recipient has indicated to the county a preference for a language other than English. The rights of recipients should be paramount during all investigations.

Intentional Program Violation Penalties

IPVs involving trafficking incidents are subject to program penalties. Program penalties for trafficking CalFresh benefits of \$500 or more results in a permanent program disqualification when found guilty by a court of appropriate jurisdiction (7 C.F.R. § 273.16(b)(4) and MPP § 20-300.315). Penalties for trafficking related incidents of less than \$500 would align with other incremental IPV penalties, as outlined in 7 C.F.R. § 273.16(b)(1) and CDSS MPP § 20-300.311.

Questions regarding the fraud referral process and trafficking related incidents may be directed to Brenda Barner, Manager, Overpayment Collection and Review Unit at (916) 651-3985 or by email at brenda.barner@dss.ca.gov.

For technical questions regarding the SARS reports, please call the SARS Help Desk at (916) 263-4036.

For questions regarding this ACIN, please contact Lori Starnes, Chief, Welfare Fraud and Emergency Food Assistance Program Bureau at (916) 653-1826 or by email at lori.starnes@dss.ca.gov.

Sincerely,

Original Document Signed By:

YVONNE L. LEE, Chief
Program Integrity Branch