

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



February 1, 2008

ALL COUNTY INFORMATION NOTICE I-05-08

TO: ALL COUNTY WELFARE DIRECTORS
ALL FOOD STAMP COORDINATORS
ALL CalWORKs PROGRAM SPECIALISTS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: FOOD STAMP QUESTIONS AND ANSWERS (Q&As)

The purpose of this letter is to provide counties with questions and answers regarding Food Stamp Program policy. These questions were submitted by the Food Stamp Review and Advisory Team (FRAT) of the County Welfare Director's Association. Answers were developed at the state level and finalized with assistance from FRAT members.

Answers to these questions are intended to be informational and are only based on the general circumstances provided in the question. For appropriate application to specific case circumstances, counties should refer to the regulations, All County Letters, and All County Information Notices that are referenced in the responses.

If you have any questions regarding the attached Q&A's, please contact Alicia Thomason of the Policy Implementation Unit at (916) 657-2630.

Sincerely,

Original Document Signed By:

RIGHTON YEE, Chief
Food Stamp Branch

Attachment

RESTRICTED ACCOUNT – ONGOING CW/NEW APPLICATION FOR FOOD STAMP BENEFITS

QUESTION:

To establish a restricted account, the family has to be an ongoing recipient of CalWORKs and/or food stamps. In cases where CalWORKs is on-going and the family is applying for food stamp benefits, should the existing restricted account (RA) established in the CalWORKs program be counted as a resource against the food stamp household's resource limit?

ANSWER:

For Public Assistance (PA) households, eligibility factors which are accepted for food stamp eligibility without verification are "the resource, gross and net income limits; social security number information; sponsored alien information; and residency." (MPP 63-301.72) Therefore, for PA households making a new application for food stamp benefits, a restricted account will be treated as it would be treated in the CalWORKs program; it is excluded as a resource in the Food Stamp Program (FSP). No new agreement is required in the Food Stamp Program.

In cases where CalWORKs is on-going and the family is applying for food stamp benefits, a restricted account is excluded as a resource.

PAID CHILD SUPPORT ARREARAGES

SCENARIO:

A father is ordered to pay \$100 per month child support and gets behind in his payments and now owes \$50 in arrearage (\$150 total).

QUESTION:

Are Child Support arrearages paid to the household excluded as income?

ANSWER:

Per MPP 63-502.2(p)(6), if the payment of the arrearage is also court ordered, the arrearage payment is excluded from gross income. 7 CFR 273.9(d)(5) (prior to the 2002 Farm Bill) specifically allowed deductions from income for paid child support arrearages. Since the deduction is now an exclusion from gross income due to implementation of 2002 Farm Bill simplification options in November 2006, the arrearage policy still applies, if the arrearage is court ordered.

SSI HOUSEHOLD MEMBER AND SHELTER COSTS

QUESTION

How are shelter costs treated when shared with an SSI/SSP household member?

ANSWER:

An SSI/SSP person is considered a nonhousehold member per MPP 63-402.2. Per MPP 63-503.452, "If the Food Stamp eligible household member(s) lives with and shares allowable shelter, utilities and/or dependent care expenses with the nonhousehold member, deduct the nonhousehold member's contribution from the appropriate expense and the net amount is the food stamp household's allowable deduction. If the contribution cannot be differentiated (e.g., pooled income), the food stamp eligible household's deduction amount shall be determined as specified in [MPP 63-502.373(c)]."

If the contribution amount is known, deduct it from the allowable expense and allow only the remaining dollar amount as a deduction.

If the contribution is made by the SSI/SSP excluded member, and cannot be differentiated from other contributions, prorate the expenses evenly among the members contributing to the expense. Allow only the food stamp household's prorated share as the allowable deduction. Refer to 63-502.375 for the method to prorate within the food stamp household.

NOTE: With Simplification Options implemented November 1, 2006 (All County Letter 06-31 and All County Information Notice I-69-06) the Standard Utility Allowance is not prorated and actual utility costs are no longer allowed in lieu of the SUA.

SSI HOUSEHOLD MEMBER -- HH ELIGIBILITY, BENEFITS AND LIMITS

QUESTION:

In a household with an SSI/SSP household member, is the household entitled to the higher \$3,000 limit, exempt from the gross income test and eligible to an unlimited excess shelter deduction?

ANSWER:

The household is not eligible for an unlimited excess shelter deduction. SSI/SSP individuals are defined as “nonhousehold members” per MPP 63-402.2. As such, they are not included in a household for determining “household size, eligibility, or benefits”. Also, at 63-503.453, SSI/SSP recipients shall not be included when determining the household’s size for the purpose of assigning a benefit level, comparing monthly income with income eligibility standards, comparing the household’s resources with resource eligibility limits or determining the categorical eligibility of the remaining household members.

STUDENT ELIGIBILITY, TIMED- OUT ADULT, CATEGORICAL ELIGIBILITY

BACKGROUND:

The household consisted of the following: a mother who has been timed-out of CalWORKs (CW) since February 2007; a father and the two children who receive CW. The mother is a full-time college student and has been since January 2007.

QUESTION:

Does an adult enrolled at least half-time in an institution of higher education meet the Food Stamp Program student eligibility requirements after she/he has been removed from the Assistance Unit (AU) solely because of the 60-month CW time limit provisions?

ANSWER:

No. She would not meet the requirements of a student in higher education solely because she timed off of CW after 60 months. Also, she is not eligible for food stamp benefits because she is not meeting the Food Stamp Program student eligibility requirements in MPP 63-406.2 that is, she is not working a minimum of 20 hours per week, she is not approved for state or federally financed work study, she is not exerting parental control over the children, she is not a recipient of CW, she has not been placed in the institution of higher education through an employment or training program (MPP 63-406.216) and she is not a single parent caring for a child under the age of 12 years.

HOUSEHOLD CONCEPT – GRANDMOTHER HAS GUARDIANSHIP OF TWO GRANDCHILDREN AND CHILDREN’S MOTHER MOVES INTO THE HOUSEHOLD.

SCENARIO:

A grandmother has full care and control of two of her grandchildren. A Letter of Guardianship filed with the courts is provided.

The mother of the two children moves back into her mother’s home and applies for food stamp benefits.

QUESTION:

Must the mother apply for herself and her children?

ANSWER:

The household composition is dependent upon state law regarding parental rights, unless the guardianship is a foster care arrangement. Parental rights are not necessarily severed in a guardianship situation. If the ties with the mother are not considered severed by state law, all four members would be considered one household, because: the grandmother and grandchildren purchase and prepare meals together so they must be together; the children and the natural mother must be included together if the children are under 22 years of age, per MPP 63-402.142. All of this ties all four members together as one household and the mother would have to include the children in her application for food stamps.

However, if the grandmother’s guardianship included termination of the mother’s parental rights, the mother would have to apply as a separate household if she is purchasing and preparing separately. Ultimately, it would be up to the county to decide if parental rights had been severed by reviewing the court order.

If the guardianship is a foster care arrangement, the children are considered boarders as PRWORA changed the FSP household composition provisions (regulations were finalized on October 30, 2000). The children being in foster care trumps living with the mother, because the children are considered boarders [MPP 63-402.141(a)]. In this situation, the foster children (the grandchildren) may participate in the FSP as part of the grandmother’s household, at her request, if she were to apply for food stamps [MPP 63-402.322(b), ACIN I-73-04]; the adult daughter would still be a separate household, unless she is purchasing and preparing food with the grandmother.

References: ACIN I-73-04, ACIN I-31-99, WI codes 361 & 361.5(b), National Center for State Courts, Pro Per Guardianship Clinic in Los Angeles, and information provided by FNS.

INCOME EXCLUSIONS – BOARD OF GOVERNOR’S GRANT (BOGG)

QUESTION:

A Board of Governor’s Grant (BOGG) waives community college enrollment fees. In the food stamp program, would the BOGG waiver fee be exempt?

ANSWER:

Yes, the value of the BOGG fee waiver is exempt in the food stamp program. The In-Kind income is excluded per MPP 63-502.2(a)(1) which states “Any gain or benefit which is not in the form of money payable directly to the household, including nonmonetary or in-kind benefits, such as, but not limited to meals, clothing, public housing, or produce from a garden.”

OVERISSUANCE – REFUND OF IMPROPER TAX INTERCEPT

Scenario:

The county has improperly intercepted federal income tax to recoup a food stamp (FS) overissuance (OI). The Internal Revenue Service (IRS) imposes a fee per intercept so that the refund is actually reduced by an additional amount. The county never got the fee because it went to the IRS.

Question:

Has the Department taken a position regarding the refund of the IRS fee? Can the County be ordered to refund the fee and the claimant would have to go to court to get the fee amount back? Or is the Department's view that all the funds intercepted (including the intercept fee) must be refunded due to improper county action to seek interception?

Answer:

Whenever the County has an improper intercept made from Federal income tax to recoup FS OI, the County shall reimburse the client the amount that was improperly recouped. Per All County Information Notice (ACIN) I-16-99 dated February 25, 1999 states:

“Currently the Internal Revenue Service charges a \$9 administrative offset fee for each FS offset for [Tax Year (TY)] 1998. Counties are responsible for refunding this offset fee to the client when an offset occurred as a result of a state or county error. ...Counties may claim offset fees as general operating costs or direct-to-program operating costs dictated by requirements under County Fiscal Letter No. 97/98-26 dated October 15, 1997.”

HOUSEHOLD CONCEPT – PROBATION VIOLATORS

SCENARIO:

A client who is on probation applies for food stamps in California. The eligibility worker is informed by a law enforcement officer that the client has an active arrest warrant for violation of his/her probation.

QUESTION:

Is evidence of an existing arrest warrant for violation of probation/parole sufficient to discontinue or deny food stamps without verification that the violations have already been investigated and officially established by the courts responsible for the supervision of probation as referenced in section (2) of the handbook at MPP 63-402.224(b)?

ANSWER:

Yes. Per the Code of Federal Regulations 7(CFR) 272.1(c)(vii), "...If a law enforcement officer provides documentation indicating that a household member is fleeing to avoid prosecution or custody for a felony, or has violated a condition of probation or parole, the State agency shall terminate the participation of the member..." An active arrest warrant for "violation of probation or parole" is sufficient verification that the household member was in violation of his/her probation or parole.

The regulations are very clear that the food stamp program excludes individuals who are in violation of their probation or parole as defined in MPP 63-102(p)(2). (MPP 63-402.224(b)). The handbook that is listed under the MPP section is to be used as a guideline.

RECERTIFICATION – NO NOTICE OF MISSED INTERVIEW (NOMI) REQUIRED

QUESTION:

A County agency sends a Notice of Expiration (NEC), a blank re-application form, and the date scheduled appointment. **The household never contacts the County agency.** Must the county send a NOMI?

ANSWER:

No. The household has not re-applied, so it is not entitled to a NOMI.

STATE REGULATIONS: MPP Section 63-504.61 states:

- .61 “The CWD shall complete the application process and approve or deny a timely application for recertification prior to the end of the household’s current certification period and shall provide an eligible household with an opportunity to participate by the household’s normal issuance cycle in the month following the expiration of the household’s certification period. ...The CWD shall not continue benefits beyond the end of the certification period unless the household has been recertified.”

RECERTIFICATION – REQUIRED NOTICE OF MISSED INTERVIEW (NOMI) PROCESS

QUESTION:

A county agency sends a Notice of Expiration (NEC), a blank re-application form, and the date and time of a scheduled appointment. **The household mails the re-application form back**, but does not attend the interview. Does the county agency send a Notice of Missed Interview (NOMI)?

ANSWER:

Yes. This household has applied, so it is entitled to a NOMI.

STATE REGULATION: MPP Section 63-300.461 and 63-300.463 states:

- .461 “The CWD shall not deny a household’s application prior to the 30th day after initial application if the household fails to appear for the first scheduled interview. A NOMI must be sent to the household reminding the household to reschedule their interview prior to the 30th day after application. Only after the NOMI is sent and the household fails to reschedule, can the CWD send a denial notice on the 30th day after application.”
- .463 “If the household fails to keep its second scheduled interview, a notice of denial must be issued no earlier than the 30th day after application.”

RESTRICTED ACCOUNTS -- NONQUALIFYING WITHDRAWALS

QUESTION:

How are Restricted Account non-Qualifying withdrawals treated in the Food Stamp Program? Is there a Period of Ineligibility (POI) determined in the FSHH due to a nonqualifying withdrawal?

ANSWER:

No. POIs are not imposed in the Food Stamp Program. According to question #13 in ACIN I-96-06, Restricted Account non-qualified withdrawals should be considered as resources counted toward the Food Stamp household's resource limit (2,000/3,000). If by the next QR7 report, the HH is within the resource limits, then the HH would remain eligible for benefits.

For change reporting households, a nonqualifying restricted account withdrawal must be reported within 10 days of the withdrawal date, and is then considered a resource. If the resources are below the resource limit (\$2,000/\$3000), then the household would remain resource eligible.

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TFS DISCONTINUED FOR NONCOOPERATION WITH QC REVIEW

QUESTION:

When a Transitional Food Stamp (TFS) household failed or refused to cooperate with a Quality Control (QC) review, should the case be discontinued for failure to comply with a QC reviewer?

ANSWER:

Yes, state and federal regulations require all households to cooperate with QC reviews. (MPP 63-505.13, ACIN I-21-04 Question #25)