

September 14, 2018

ALL COUNTY LETTER (ACL) NO. 18-99

TO: ALL COUNTY WELFARE DIRECTORS
ALL CONSORTIUM PROJECT MANAGERS
ALL CALFRESH PROGRAM SPECIALISTS

SUBJECT: BROWN AND ESPINOSA-TAPIA V. LIGHTBOURNE LAWSUIT –
STATEWIDE POLICY REGARDING OVERISSUANCE
COLLECTION PERIODS IN THE CALFRESH PROGRAM

REFERENCE: [TITLE 7 OF THE CODE OF FEDERAL REGULATIONS
SECTIONS \(CFR\) 273.18\(b\) AND CFR 273.18\(c\)\(1\)\(i\); MANUAL
OF POLICY AND PROCEDURES \(MPP\) SECTIONS 63-801.111,
MPP 63-801.112, AND MPP 63-801.311\(b\); ALL COUNTY
INFORMATION NOTICE \(ACIN\) NO. I-03-02, ACIN I-52-02 AND
ACIN 1-58-08](#)

The purpose of this letter is to inform County Welfare Departments (CWDs) of a change to the allowable collection period for CalFresh inadvertent household and administrative error overissuances (OIs) as a result of a settlement in the lawsuit of Brown and Espinosa-Tapia v. Lightbourne. The CWDs will now only collect on inadvertent household and administrative error OIs issued up to three years prior to the date of discovery, the same timeframe that determines when an OI claim may be established.

BACKGROUND

Outgoing OI Collection Policy

Current CalFresh policy sets different timeframes for when a CWD may establish an OI claim and the period for which past OI payments may be collected. Per ACIN I-03-02, “claim” means the first notice of the computation of an OI provided by a county to a CalFresh recipient or former recipient.

The MPP Section 63-801.111 states, "The CWD shall take action on inadvertent household and administrative errors claims for which less than three years have elapsed between the month the overissuance occurred and the month the CWD determined by computation that an overissuance occurred, irrespective of the date the DFA 842 was completed."

The MPP Section 63-801.112 states, "The CWD shall not take action on inadvertent household and administrative error claims for which more than three years have elapsed between the month the overissuance occurred and the month the CWD determined by computation that the overissuance occurred irrespective of the date the DFA 842 was completed."

However, MPP Section 63-801.311(b) provides that when an inadvertent household or administrative error OI is determined to have occurred, the CWD shall calculate the amount of the overissuance which occurred during the six years preceding the date the overissuance was discovered.

The ACIN I-52-02 interprets these regulations as follows: An OI may be established if a household received any portion of it in the three years prior to the CWD discovering it. However, once the OI is established, the CWD can collect on payments made as a part of that OI during the six years prior to discovery, this allowing a larger amount of an OI to be collected.

New OI Policy Establishes Identical Timeline for Establishment and Collection

Pursuant to the terms of the settlement, CWDs will now only collect on inadvertent household and administrative error OIs issued up to three years prior to the date of discovery, the same timeframe that determines when an OI claim may be established.

Example:

On January 1, 2018, the CWD discovers a CalFresh OI for a former CalFresh recipient that occurred from January 1, 2012 through March 31, 2015. The OI was caused by an inadvertent household error because the former recipient mistakenly reported her net earnings, rather than her gross earnings. On January 15, 2018, the CWD notifies the recipient of the OI.

Under the new OI policy, the CWD may collect on any portion of the OI issued up to three years prior to the date of discovery. In the above example, the CWD may only collect on the months of the CalFresh OI occurring three years prior to January 1, 2018. This means the CWD can only collect and initiate a claim for the period of January 2015 through March 2015. The CWD cannot collect on any portion of the OI issued prior to January 2015 as this is beyond the three-year timeframe.

IMPLEMENTATION INSTRUCTIONS

Effective immediately, all newly established inadvertent household and administrative error OI claims must comply with the new three-year collection timeframe. Because the Brown and Espinosa-Tapia v. Lightbourne lawsuit was brought by individual former recipients, OI claims established prior to the date of this letter will not be interrupted or altered. For newly established OI claims, CWDs are to cease compliance with ACIN I-52-02 and MPP Section 63-801.311(b) as they pertain to the collection of OI's received by households more than three years prior to discovery. Per the lawsuit settlement, CDSS will amend MPP Section 63-801.311(b) as soon as administratively feasible.

If you have any questions regarding this ACL, please contact the CalFresh Policy Bureau at (916) 651-8047.

Sincerely,

Original Document Signed By:

KIM JOHNSON
Deputy Director
Family Engagement and Empowerment Division