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

December 28, 2000

ALL-COUNTY LETTER 00-87

REASON FOR THIS TRANSMITTAL

[ ] State Law Change
[ ] Federal Law or Regulation Change
[ ] Court Order or Settlement Agreement
[X] Clarification Requested by One or More Counties
[ ] Initiated by CDSS

TO: ALL COUNTY WELFARE DIRECTORS
ALL FOOD STAMP COORDINATORS

SUBJECT: COMPROMISING ADMINISTRATIVE OVERPAYMENTS LOMELI V. SAENZ COURT CASE QUESTIONS AND ANSWERS

REFERENCE: ALL-COUNTY LETTER 00-59; ALL-COUNTY INFORMATION NOTICE I-09-00

The purpose of this letter is to transmit the attached policy questions and answers pertaining to the implementation of the Lomeli v. Saenz court case settlement agreement. As a result of the Lomeli v. Saenz court case settlement agreement, effective March 1, 2000, counties were instructed to recoup administrative error overissuances by a reduction in the monthly allotment by 5 percent or $10, whichever is greater, for up to a total of 36 consecutive months. The attached questions and answers were developed as a result of county inquiries regarding the implementation of this settlement agreement.

If you have any additional questions regarding Lomeli v. Saenz, please contact Doris Bowers at (916) 654-0710.

Sincerely,

ORIGINAL SIGNED 12/28/00 BY:
BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

Attachment

COMPROMISING ADMINISTRATIVE ERROR OVERPAYMENTS
LOMELI V. SAENZ COURT CASE

Application of the 36 Month Time Period

1. Define "36 consecutive months."

36 consecutive months means 36 calendar months from the first month of allotment adjustment regardless of whether or not the client remains on aid.

2. If the allotment adjustment begins in March 2001, would the 36 month end date be February 2004?

Yes, the 36 month period would end on February 29, 2004, regardless of whether or not the client remains on aid.

3. An administrative error overissuance occurred in 1999, the client was noticed in February 2000, and allotment reduction began in March 2000. Would this situation fall under the provisions of the Lomeli v. Saenz court case agreement?

Yes, according to ACL 00-59, cases with the noticing requirements for an administrative error overissuance being met in February, and the first month of allotment reduction being in March, are included.

4. How does the 36 month time limit work if the client files an appeal on the establishment of or calculation for an administrative error overissuance?

The normal procedures regarding the continuation of benefits when a client files a request for a hearing, would be followed. If allotment reduction has already begun, it would be stopped in accordance with the procedures for continuation of benefits in MPP 63-804.6. However, the clock would continue to count towards the 36 month time limit. If the client loses the appeal, allotment reduction should be started again and could continue until the 36 month time limit is reached. If allotment reduction has not yet started, and the client loses the appeal, reduction should be started and the first month of the 36 month time limit would begin with the first month of the allotment reduction. In either of these two scenarios, the county should continue to follow the current procedures regarding establishing an overissuance claim when the client was not entitled to benefits he or she received. If the client wins the appeal, the normal procedures would apply.

5. If a balance remains at the end of the 36 month time limit, may other collection activities be pursued, or is any remaining balance to be forgiven or compromised?

At the end of the 36 month time period, regardless of whether or not the client is on aid at that time, and regardless of whether or not allotment reductions have been made that entire time, any remaining uncollected balance is to be forgiven or compromised and may not be collected by any other means.

Former Food Stamp Recipients

6. When a client goes off of aid or has benefits suspended, is the time limit still running?

If an allotment reduction has already started for administrative error overissuances established on or after March 1, 2000, the months would continue to count towards the 36 month limit while the client is not on aid.

7. May an administrative error overissuance still be collected while the client is not on aid?

Yes, as long as the 36 month time limit has not expired, the usual collection procedures for someone not on aid would apply.

8. What happens if a former food stamp recipient reapplies for benefits?

When a former food stamp recipient goes back on aid, allotment reduction could be started if the 36 month time limit has not expired.

9. If the case is closed when the administrative error overissuance is established, may the county collect?

Yes, Lomeli has no impact on the collection of overissuances from former food stamp recipients.

10. If the case is closed at the time the administrative error overpayment is calculated, but the client goes back on aid, when is the first month of the 36 month time period?

If the case is closed, the county would follow normal collection procedures. When the client is back on aid, the first month of the 36 month period would be the first month that the allotment is reduced.

11. What happens if the case was closed when the administrative error overpayment is calculated and the client has made payments?

As usual, the amount of the payments that were made would reduce the total amount of the overissuance owed.

Multiple Overissuances

12. What happens when there are multiple collections on a case?

Counties cannot combine and collect administrative error overissuances established prior to March 1, 2000, with those established on or after March 1, 2000, because administrative errors established after March 1, 2000, are recouped at a different rate. Administrative error overissuances established under Lomeli should not be collected with any other type of overissuance at the same time through allotment reduction.

13. If the county is already doing an allotment reduction for a previous overissuance, and then establishes a new administrative error overissuance subject to the Lomeli v. Saenz agreement, should the county wait until the allotment reduction is completed on the first overissuance and then begin allotment reduction on the new overissuance? Does the 36 month time period on the new administrative error overissuance begin with the first allotment reduction for that new overissuance?

Yes, the county should wait until the old allotment reduction is completed before starting the new allotment reduction. The 36 month time limit for the new overissuance subject to the Lomeli v. Saenz agreement would begin with the first month of allotment reduction for that new overissuance.

NOAs and Reporting Requirements

14. Is there a special county reporting requirement for that portion of the overissuance that is not collected?

Counties should continue to follow their normal reporting procedures, such as those required by MPP 63-801.82. The Lomeli v. Saenz agreement did not include any new reporting requirements. Report the amount of any compromised claims on FNS-209, Line 10.

15. ACL 00-59 states that "households that have overissuances classified as inadvertent household errors should be afforded an opportunity to request a hearing to determine if the error may have been administrative." Do any client error overissuances need to be re-noticed?

No, re-noticing is not necessary.

16. Do the rules regarding sending repayment agreements still apply?

Yes, the rules still apply and repayment agreements must still be sent.

17. If a client wants to have their allotment reduced by more than 5% for a Lomeli overissuance, can this be done?

No, allotment reduction cannot be done at a rate higher than 5% or $10, whichever is greater. As usual, however, a claimant may make voluntary payments, in cash or food stamps, to reduce the balance of the overissuance at any time.

18. Which NOA should be used for administrative errors established as of March 1, 2000?

For administrative errors established as of March 1, 2000, DFA 377.7D3 should be used.

19. If a county established an inadvertent household error after March 1, 2000, and it is later determined, through the appeal process, that the error is administrative, at what rate does the county collect?

If, through the appeal process, the overissuance is determined to be administrative on or after March 1, 2000, Lomeli would apply and the collection rate would be at 5% or $10, whichever is greater.