STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

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

March 7, 1995

ALL-COUNTY LETTER NO: 95-12

TO: ALL COUNTY WELFARE DIRECTORS

REASON FOR THIS TRANSMITTAL
( ) State Law Change
( ) Federal Law or Regulation Change
( ) Court Order or Settlement Agreement
( ) Clarification Requested by One or More Counties
(X) Initiated by CDSS

SUBJECT: INTERCEPTION OF FEDERAL INCOME TAX REFUNDS TO COLLECT DELINQUENT RESTITUTION OF FOOD STAMP OVERISSUANCES IN CONJUNCTION WITH THE FOOD AND CONSUMER SERVICE AND THE INTERNAL REVENUE SERVICE

The California Department of Social Services (CDSS), in conjunction with the Food and Consumer Service (FCS) and the Internal Revenue Service (IRS), operates a federal tax refund intercept program. This program is designed to facilitate the collection of delinquent restitution of Food Stamp (FS) overissuances.

This letter is to provide you with the necessary procedures for participation in the Food Stamp intercept program with FCS and IRS. In order to participate in the tax refund program, counties shall submit to CDSS Fraud Bureau specific information as required by FCS and IRS. The annual submission procedures for the tax intercept program for tax year 1995 will follow in an All-County Information Notice. Under IRS procedures, each participating county shall provide the CDSS with a list of eligible cases submitted in the manner and timeframe prescribed in MPP Section 20-404.

IRS regulations specify certain criteria for debts that can be referred to intercept. They are:

1. Claims must be past due and legally enforceable (defined as the authority to establish and collect Food Stamp overissuances based on the Food Stamp regulations and relevant court orders in effect at the time of the overissuance).

2. Claims arising from inadvertent household error (IHE) and intentional program violation (IPV).

3. Claims of a minimum of $25.

4. Claims delinquent no more than 10 years and no less than three months when submitted.

5. Claims free of a bankruptcy stay in effect or discharged in bankruptcy.

6. Claims submitted in the name of only one individual. (A claim must be reduced by any amount submitted as a separate claim for other individuals who are jointly and severally liable. Each adult member of a household is jointly and severally liable for the value of Food Stamps overissued to the household.)

IRS regulations set certain procedural requirements. They are:

1. Individuals must be provided a pre-offset notice and informed of their appeal rights.

2. Individuals must be given 60 days after the date of the pre-offset notice to respond to the county.

IRS rules state that, in order to make a reasonable effort to notify the individual about the intended referral for intercept, the CDSS must use address information provided by the IRS. The IRS specifies that the use of addresses from IRS files is the standard for a reasonable attempt to notify individuals about the intended referral for intercept because all taxpayers are required to keep their address current with the IRS.

The IRS requires that the county provide to the individual certain appeal rights which are:

1. Administrative review of the proposed intercept at the county level. The individual may present evidence or documentation of the claim not past due or not legally enforceable.

2. A Fair Hearing if the individual disagrees with the result of the administrative review. Request for a Fair Hearing must be filed within 30 days of receiving the administrative review findings.

3. An FCS review of the Fair Hearing decision. Request for the review must be filed within 30 days of the notice of the Fair Hearing decision.

Because of the effectiveness of the Intercept Program in the collection of Food Stamp overissuances, the department encourages all counties to participate. If you have any questions or comments, please contact Mr. Dave Fairchild of the CDSS Fraud Bureau at (916) 445-3766.

Bruce Ulrstabb

for MICHAEL C. GENEST
Deputy Director
Welfare Programs Division

cc: CWDA