

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



December 21, 1995

ALL-COUNTY LETTER NO. 95-81

TO: ALL COUNTY WELFARE DIRECTORS  
ALL SIU CHIEF INVESTIGATORS  
ALL APPEALS REPRESENTATIVES

REASON FOR THIS TRANSMITTAL

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

SUBJECT: IMPOSING INTENTIONAL PROGRAM VIOLATIONS (IPV) IN THE FOOD STAMP PROGRAM

On October 4, 1995, the U.S. Court of Appeals for the Ninth Circuit decided the case of Garcia and Zellar v. Concannon et al. This decision directly impacts how California imposes sanctions based upon Food Stamp IPV determinations. It requires that the California Department of Social Services (CDSS) immediately amend its procedures and pass emergency regulations to coincide with the decision.

The Federal Food Stamp Act, 20 U.S.C. Section 2015 provides that any person found guilty of violating the anti-fraud provisions of the act shall immediately become ineligible for further participation in the program for a fixed disqualification period. However, federal regulations, as well as California's state regulations, do not require the imposition of the period of disqualification "immediately" upon the determination of an IPV. If the person is not currently participating in the program or is otherwise ineligible, the disqualification is deferred until the person is determined to be eligible for benefits. The above cited court case held that 7 CFR Section 273.16(a)(1), (e)(8)(iii), (f)(2)(iii) and (h)(2)(ii) are out of compliance with the Food Stamp Act. Consequently, CDSS regulation section 20-300.36 is also out of compliance.

Effective December 5, 1995, counties are to immediately comply with this decision. Any current determination of an IPV for an eligible recipient shall be imposed as required within current state regulations. However, if the person is not currently eligible for food stamp benefits, the period of disqualification is to start as if they were in fact eligible. If the whereabouts of the person is unknown, the notice should be sent to their last known address.

Counties should not impose any period of disqualification if the person becomes eligible and the period of disqualification has expired according to the terms of the lawsuit. However, if the period of disqualification has not yet expired, the remaining months of the sanction can be imposed. CDSS Fraud Bureau will update the nationwide disqualification system to identify the disqualification periods which have expired and reflect that they are no longer

pending. CDSS will notify counties at a later date of how to proceed with cases where the county has imposed a disqualification period that has expired, after receiving notification of the revisions to the regulations of the U.S. Department of Agriculture.

Imposing periods of disqualification in the Food Stamp Program start at different times depending on how the IPV was determined. If the IPV was determined by an Administrative Disqualification Hearing (ADH) or because the household member signed a disqualification waiver, the period starts within the first month following the date the household member receives the DFA 377.7A notice. However, if the IPV was determined by court order or by a Disqualification Consent Agreement (DCA), the disqualification starts 45 days from when the disqualification was ordered or from the date the DCA was signed. This means that if the District Attorney's Office does not notify the welfare department of the IPV determination in a timely manner, the county may not be able to impose the entire period of disqualification. If the county cannot impose the entire period of disqualification and the person was eligible to benefits during that time, the county can compute an overissuance and grant adjust to recover those benefits provided during the sanction period.

The Garcia court decision will also impact ADH and Fair Hearings. Effective immediately, decisions issued by Administrative Law Judges will reflect that the imposing of an IPV shall be immediate.

Attached is a reproducible Food Stamp Notice of Disqualification (DFA 377.7A) form which has been revised, based upon this decision to delete the language that notifies the household member that if they are not currently eligible, the penalty will start when they reapply or otherwise become eligible. The form has also been revised to incorporate the changes brought about based on a change to the Mickey Leland Childhood Hunger Act. Language has been added to incorporate the additional penalties imposed for being found guilty of trading food stamps for firearms, ammunition, explosives, or a controlled substance.

If you have questions concerning the content of this All County Letter, contact David Hessler of the Fraud Bureau at (916) 445-0031. If you have questions in regard to the form, contact Melissa Buchanan of the Food Stamp Program Bureau at (916) 654-8467.



BRUCE WAGSTAFF  
Deputy Director  
Welfare Programs Division

Attachment

# NOTICE OF ADMINISTRATIVE DISQUALIFICATION

COUNTY OF \_\_\_\_\_

STATE OF CALIFORNIA  
HEALTH AND WELFARE AGENCY  
DEPARTMENT OF SOCIAL SERVICES

Notice Date : \_\_\_\_\_  
Case Name : \_\_\_\_\_  
Number : \_\_\_\_\_  
Worker Name : \_\_\_\_\_  
Number : \_\_\_\_\_  
Telephone : \_\_\_\_\_  
Address : \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(ADDRESSEE)

Questions? Ask your Worker.

**State Hearing:** You cannot appeal the disqualification action in a state hearing. If you think the new amount of food stamps for the other members of your household is wrong, you can ask for a hearing. The back of this page tells how. Most often the new amount will not change unless the hearing decision changes it.

## DISQUALIFICATION ACTION

The following action disqualified you from the Food Stamp Program:

- A state hearing decision found you committed an intentional program violation.
- A court decision found you committed an intentional program violation.
- You signed a Disqualification Consent Agreement on \_\_\_\_\_.
- You signed an Administrative Disqualification Hearing Waiver on \_\_\_\_\_.
- You were disqualified from the Food Stamp Program in \_\_\_\_\_ (LOCATION)

A copy of the above action was sent or given to you. If a state hearing decision found you committed an intentional program violation, the state or federal government may still prosecute you in court.

## DISQUALIFICATION PENALTY

The disqualification penalties are 6 months for the first violation, 12 months for the second violation, and permanent disqualification for the third violation, unless you are found guilty in any court of law of having traded food coupons for firearms, ammunition, explosives, or controlled substances. If you are found guilty of having traded coupons for firearms, ammunition, or explosives, the penalty is a permanent disqualification for the first offense. If you are found guilty of having traded coupons for controlled substances, the penalty is 12 months for the first offense and permanent disqualification for the second offense.

This is your \_\_\_\_\_ violation, which means:

- You cannot get food stamps for \_\_\_\_\_ months, from \_\_\_\_\_ to \_\_\_\_\_.
- You have been permanently disqualified from the Food Stamp Program, as of \_\_\_\_\_.

## NOTICE TO THE OTHER MEMBERS OF YOUR HOUSEHOLD

- Because \_\_\_\_\_ was disqualified from the Food Stamp Program:
  - Your food stamps will change from \$ \_\_\_\_\_ to \$ \_\_\_\_\_ as of \_\_\_\_\_.
  - But, since you reported a change, your food stamps will be different. The enclosed Notice of Change shows the amount you will get.
  - Your food stamps will stop as of \_\_\_\_\_. As a result of this disqualification, your income is too high. You may reapply when the disqualification period ends or if circumstances change.
- Your certification period has ended. You may reapply at any time. Food stamps may be different because \_\_\_\_\_ was disqualified.

COMMENTS:

**Rules:** These rules apply. You may review them at your welfare office: 20-300.221(c), 20-300.3, 22-003.11, 63-804.1, 63-805.1

## YOUR HEARING RIGHTS

### To Ask For a State Hearing

- You only have 90 days to ask for a hearing. The 90 days started the day after we gave or mailed you this notice.
- You have a much shorter time to ask for a hearing if you want to keep your same benefits.

### To Keep Your Same Benefits While You Wait For a Hearing

You must ask for a hearing before the action takes place.

- Your Cash Aid will stay the same until your hearing.
- Your Medi-Cal will stay the same until your hearing.
- Your Food Stamps will stay the same until the hearing or the end of your certification period, whichever is earlier.
- Your Transitional Child Care (TCC) will stay the same until the hearing or the end of your eligibility period, whichever is earlier. **For all other child care programs, your benefits will NOT stay the same until your hearing.**
- If the hearing decision says we are right, you will owe us for any extra cash aid or food stamps you got.

### To Have Your Benefits Cut Now

If you want your Cash Aid or Food Stamps cut while you wait for a hearing, check one or both boxes.

- Cash Aid     Food Stamps

### To Get Help

You can ask about your hearing rights or free legal aid at the state information number.

Call toll free: 1-800-952-5253

If you are deaf and use TDD, call: 1-800-952-8349

You may get free legal help at your local legal aid office or welfare rights group.

### Other Information

**Child and/or Medical Support:** The District Attorney's office will help you collect support even if you are not on cash aid. There is no cost for this help. If they now collect support for you, they will keep doing so unless you tell them in writing to stop. They will send you any current support money collected. They will keep past due money collected that is owed to the county.

**Family Planning:** Your welfare office will give you information when you ask for it.

**Hearing File:** If you ask for a hearing, the State Hearing Office will set up a file. You have the right to see this file. The State may give your file to the Welfare Department, the U.S. Department of Health and Human Services and the U.S. Department of Agriculture. (W. & I. Code Section 10950).

## HOW TO ASK FOR A STATE HEARING

The best way to ask for a hearing is to fill out this page. Make a copy of the front and back for your records. Then, send or take this page to:

Your worker will get you a copy of this page if you ask. Another way to ask for a hearing is to call 1-800-952-5253. If you are deaf and use TDD, call: 1-800-952-8349.

### HEARING REQUEST

I want a hearing because of an action by the Welfare Department of \_\_\_\_\_ County about my

- Cash Aid     Food Stamps     Medi-Cal     Child Care  
 Other (list) \_\_\_\_\_

Here's why: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Check here and add a page if you need more space.

I want the person named below to represent me at this hearing. I give my permission for this person to see my records or come to the hearing for me.

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

I need a free interpreter.  
My language or dialect is: \_\_\_\_\_

My name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

My case number: \_\_\_\_\_

My signature: \_\_\_\_\_

Date: \_\_\_\_\_