



CDSS

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Regulation Package #0309-03

CDSS MANUAL LETTER NO. CFC-10-01

TO: HOLDERS OF THE CONFIDENTIALITY, FRAUD, CIVIL RIGHTS AND STATE
HEARINGS MANUAL, DIVISION 22

Regulation Package #0309-03

Effective 5/10/10

Sections 22-003

This manual letter has been posted on the Office of Regulations Development website at <http://www.dss.cahwnet.gov/ord/PG604.htm>

Effective July 1, 2009, emergency regulations were adopted to reduce overpayments by placing the burden on counties to implement best practices and develop local oversight functions to reduce the occurrence of overpayments through county errors. These regulations implemented processes and procedures to identify, track, report, collect and remit the federal share of Title IV-E foster care and adoption assistance overpayments.

These regulations required amendments to more than one chapter within the California Department of Social Services Manual of Policies and Procedures. This manual letter includes final amendments made to the State Hearings Division of the regulations as a result of issues raised at the public hearing held on August 12, 2009 and from further review of the emergency regulations by CDSS.

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Confidentiality, Fraud, Civil Rights, and State Hearings Manual changes was CFC-09-01.

Page(s)

Replace(s)

97 and 98

Pages 97 and 98

Attachments

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22-002 DETERMINATION OF TIME LIMITS**22-002**

- .1 If the last day for the performance of any act required by these regulations is a holiday, then such period shall be extended to the next day which is not a holiday.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

22-003 RIGHT TO A STATE HEARING**22-003**

- .1 A state hearing shall be available to a claimant who is dissatisfied with a county action and requests a hearing in the manner set forth below.
- .11 There is no right to a state hearing regarding a Food Stamp or CalWORKs administrative disqualification, unless the issue is the CWD's method of implementing a Food Stamp or CalWORKs administrative disqualification hearing decision. (See Division 22, Chapters 22-200 and 22-300, Division 20, Chapter 20-300, and Division 63, Section 63-805.)
- .12 Notwithstanding any other regulation, there is no right to a state hearing when either state or federal law requires automatic grant adjustments for classes of recipients, unless the reason for the request for the state hearing is incorrect grant computation.
- .121 In the event of such automatic grant adjustment, the State Hearings Division shall promptly review the requests for a state hearing to determine whether the basis for a request is the automatic grant adjustment. See Section 22-054.
- .122 In the CalWORKs Program, all those who request a hearing when the change is because either state or federal law required an automatic grant adjustment shall be treated as though the subject of the hearing was not a law change until the time of the hearing.
- (a) If the Administrative Law Judge determines that the subject of the hearing was the wisdom or validity of such a law change, the request shall be permitted to be dismissed pursuant to Section 22-054.31.

22-003	RIGHT TO STATE HEARING (Continued)	22-003
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- .13 Complaints as to discourteous treatment by a county employee shall not be subject to the state hearing process.

- .14 There is no right to a state hearing regarding child custody and child welfare service issues while that child is under the jurisdiction of the juvenile court. All issues regarding the child's custody shall be heard by the juvenile court, including but not limited to those issues left to the discretion of the welfare department or probation department by the juvenile court.

- .15 There is no right to a state hearing regarding overpayments made to foster care providers including group homes and foster family agencies where the claimant entered into a voluntary repayment agreement, under Section 45-305.231.

NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Sections 32 and 33. Reference: Sections 10613, 10950, 11209, 11466.23, 11466.235, and 11466.24, Welfare and Institutions Code; 45 CFR 205.10; 45 CFR 235.112(c)(2); 45 CFR 255.4(j)(1) and 256.4(b); and Madrid v. McMahon (1986) 183 Cal. App. 3rd 151, In Re Jennifer G. (1990) 221 Cal App. 3rd 752 and In Re Moriah T. (1994) 23 Cal. App. 4th 1366.