

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814

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Regulation Package #0598-15

CDSS MANUAL LETTER NO. CFC-99-02

TO: HOLDERS OF CONFIDENTIALITY, FRAUD, CIVIL RIGHTS AND STATE HEARINGS MANUAL,  
DIVISION 20**Regulation Package #0598-15****Effective 2/10/99****Sections 20-005, 20-006, 20-300, 20-351, and 20-353.**

The attached regulations reflect revisions to the emergency regulations that were effective July 1, 1998. These revisions were made for clarity and consistency. Those regulations implemented and made specific the requirements of Assembly Bill (AB) 1542, Chapter 270, Statutes of 1997, which amended Welfare and Institutions Code Section 11486. AB 1542 implemented welfare reform as required by federal law, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193), which was enacted on August 26, 1996. AB 1542 established a new cash aid program, the California Work Opportunity and Responsibility to Kids (CalWORKs) Program effective January 1, 1998.

These regulations were considered at the Department's public hearings held on September 14, 15, 16, 17, 22, and 23, 1998.

**FILING INSTRUCTIONS**

**Revisions to all manuals will again be shown in a [graphic screen](#).** 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 changes was Manual Letter No. CFC-99-01.

<u>Page(s)</u>	<u>Replace(s)</u>
20 and 21	Pages 20 and 21
24 and 25	Pages 24 and 25
42 and 43	Pages 42 and 43
44 through 46	Pages 44 through 46
48 and 49	Pages 48 and 49
52.1 through 54	Pages 52.1 through 54

Attachment

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20-005 COUNTY RESPONSIBILITY 20-005

.1 General

The CWD is responsible for making all determinations as to eligibility or ineligibility for assistance and for establishing the amount of overpayment/overissuance where ineligibility for any benefit is found.

The CWD is also responsible for preventing and discovering fraudulent actions by recipients to the furthest extent possible, and for taking prompt and decisive steps to investigate and establish the facts regarding any situation in which it appears possible that benefits are being received on the basis of incorrect, incomplete or false data. When the CWD has grounds to suspect that eligibility was established or an overpayment/overissuance of assistance, regardless of amount, was due to fraud, the CWD is responsible for completing an investigation and, where evidence dictates, requesting a complaint from the prosecuting authority. At the request of the prosecuting authority, the CWD is responsible for providing documentary evidence, and ensuring the appearance of investigators and other county employees at hearings and trials.

.2 Special County Responsibilities

Each county shall:

- .21 Subject to the provisions of Section 20-007.1, establish and maintain a Special Investigative Unit (SIU) consisting of staff trained and qualified to prevent, detect, and investigate fraud and carry out investigations of other possible criminal activity within the purview of the CWD.
- .22 Notify the California Department of Social Services (CDSS) of those investigators exercising the option to carry firearms, pursuant to Penal Code Section 830.35.
- .23 Maintain complete records on all fraud investigation activities for statistical reports to be submitted to CDSS.
- .24 Provide periodic refresher and special training in the prevention and detection of fraud to all program staff and first-line supervisors, utilizing curricula approved by the CDSS. It is recommended that new employees receive a minimum of eight hours of such training during the first four months of their employment. Minimum adequate refresher training is considered to be four hours annually.



20-005 COUNTY RESPONSIBILITY (Continued) 20-005

.3 Responsibility of Eligibility Workers and Supervisors

.31 General

.311 Program staff and program supervisors are responsible for determining eligibility and [the](#) correct amount of benefits for all recipients. They must ensure that the applicant/recipient understands his/her responsibility for providing correct and complete data and for promptly reporting facts required for correct determination of eligibility and [the](#) amount of benefits. The program staff must also ensure that the applicant/recipient understands the penalties involved for misstating or not reporting relevant facts. This responsibility should be reviewed with the applicant/recipient regularly as a reminder or to clear up any misunderstanding.

.312 Program staff [are](#) also responsible for taking prompt action on information received and for relating information [received or](#) observed [which may affect future eligibility](#) or need, subject to the provisions of Division 22-000.

.313 When it is known that recipients have a problem in reporting changes, more frequent [contact](#) may minimize the problem when there [is reasonable](#) doubt as to the continuing eligibility or correctness of benefits. This type of follow-up of information to prevent possible fraudulent action by the recipient is a recognized "helping" process for [which program](#) staff [are](#) responsible.

.314 The observations of the program staff and information from unrelated conversation may bring out the facts even though the applicant/recipient may not have intended to report them in the beginning.

.32 Certification and Reporting Requirements

.321 Program staff shall advise applicants/recipients of the possibility of criminal penalties for making false statements or failing to report information or circumstances which may affect eligibility or [the](#) amount of benefits, and shall certify that [the staff](#) have fulfilled this responsibility during each benefit application or eligibility redetermination. The certification shall be signed and dated by both the program staff person and the applicant/recipient on the same page.



20-006	INCOME AND ELIGIBILITY VERIFICATION SYSTEM (IEVS) REQUIREMENTS (Continued)	20-006
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.2 IEVS Data Input

For the purposes of this section, the terms "applicant" and "recipient" shall include all individuals seeking or receiving assistance and any other individuals whose income and resources are considered in determining eligibility and the amount of benefits, if the SSN has been obtained by the CWD. Applicants and recipients of nonfederally-funded programs such as State-only programs are not considered applicants and recipients for the purposes of IEVS.

.21 Applicant Data

- .211 The CWD shall submit to CDHS, in a format prescribed by CDHS, specific identifying information such as, but not limited to, name, SSN, date of [birth, on](#) every applicant for CalWORKs, Food Stamp, and Refugee/Entrant Cash Assistance programs for the purpose of operating IEVS.
- .212 The CWD shall input applicant data into IEVS at the first available opportunity following the CWD's receipt of the necessary information from the applicant, but no later than five working days after the signed statement of facts is completed.
- .213 The CWD shall not submit information to IEVS on any applicant who has been determined ineligible, except to the extent that the submission of such information is required under .2 of this section.
- .214 Information about individual applicants who cannot provide SSNs at application shall be requested from IEVS as soon as possible, but no later than the time frame specified in .221 of this section after the CWD is notified of their SSNs.

.22 Recipient Data

- .221 Every quarter the CWD shall submit to CDSS, in a format prescribed by CDSS, income and eligibility information on each recipient of CalWORKs, Food Stamps, and Refugee/Entrant Cash Assistance, for the purpose of operating IEVS. Nonfederally-funded cases may be submitted to CDSS in a format as prescribed by CDSS.



20-006	INCOME AND ELIGIBILITY VERIFICATION SYSTEM (IEVS) REQUIREMENTS (Continued)	20-006
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HANDBOOK BEGINS HERE

.222 Input for the Payment Verification System will continue to be extracted by CDSS monthly from the county input to the Central [Database](#).

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.3 Uses of IEVS Information

The CWD shall use information obtained through the IEVS for the purposes of:

- .31 Verifying the applicant's/recipient's eligibility.
- .32 Verifying the proper amount of benefits.
- .33 Determining whether a recipient received benefits to which he/she was not entitled.
- .34 Conducting criminal or civil prosecutions.

.4 IEVS Match Follow-up Time Frames

.41 Applicants.

If the IEVS information is received during the application period, the CWD shall use it, to the extent possible, in making the eligibility determination. However, the eligibility determination shall not be delayed pending receipt of IEVS information if other information establishes the individual's eligibility.

.42 Recipients.

The CWD shall, within the time frames prescribed by federal rule ([See Handbook Section 20-006.424](#)), complete a case action or [document](#) in the case record that no case action is necessary.

20-300	INTENTIONAL PROGRAM VIOLATIONS IN THE FOOD STAMP PROGRAM (Continued)	20-300
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- (2) I do not admit that the facts as presented are correct. However, I have chosen to sign this Disqualification Consent Agreement and understand that a disqualification penalty shall result.
  
  - (c) After a respondent has signed a Disqualification Consent Agreement and a disqualification penalty has been imposed, no further administrative appeal procedure exists. The disqualification penalty cannot be changed by a subsequent Administrative Disqualification Hearing or a state hearing decision. The respondent, however, is entitled to seek relief in a court having appropriate jurisdiction.
- .23 Administrative Disqualification Hearing
- Those cases in which the prosecuting authority has determined (a) that facts do not warrant prosecution, or (b) those cases previously referred for prosecution and declined, shall be returned to the CWD and the CWD shall initiate referral action for an administrative disqualification hearing through the [CDSS](#) in accordance with [CDSS' Manual of Policies and Procedures, Division 22](#).
- .24 The CWD shall not initiate an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of the appropriate jurisdiction, if the factual issues of the case arise out of the same or related circumstances.
- .25 If the Administrative Disqualification Hearing or the court finds that the household member committed [an IPV](#), or if the accused individual has signed a Disqualification Consent Agreement or a Waiver of Right to an Administrative Disqualification Hearing, the CWD shall mail an Administrative Disqualification Notice ([DFA 377.7A](#)) to the household member.



20-300      INTENTIONAL PROGRAM VIOLATIONS IN THE FOOD STAMP PROGRAM (Continued)      20-300

Following an administrative hearing or a Waiver of Right to an Administrative Disqualification Hearing, the notice shall be sent prior to the disqualification action. The notice shall inform the household member of the decision, the reason for the decision, and the date the disqualification will take effect. The notice shall also advise the remaining household members of the allotment that they will receive during the disqualification period, or that they may reapply after the disqualification period ends. If the individual is no longer participating, the notice shall inform the individual that the period of disqualification [shall start as if the individual was in fact eligible](#).

In addition, the CWD shall send the household a Repayment Notice (DFA 377.7B) and a Repayment Agreement (DFA 377.7C) for restitution as specified in CDSS' Manual of Policies and Procedures, Division 63, Section 63-801.43. The procedures for handling the income and resources of the disqualified member shall be in accordance with regulations in CDSS' Manual of Policies and Procedures, Division 63, Section 63-503.441.

.3      Disqualification Penalties

.31      Individuals found to have committed an IPV shall be ineligible to participate in the Food Stamp Program as follows:

.311      Except as specified in Sections 20-300.312, .313, .314, and .315, twelve months for the first violation, twenty-four months for the second violation, and permanently for the third violation.

(a)      For the penalties specified in Section 20-300.311 above, the individual(s) shall have been found to have committed the IPV either through an administrative disqualification hearing or by a court of appropriate jurisdiction.

.312      Twenty-four months for the first violation and permanently for the second violation of trading food stamps for a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 USC 802).

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**HANDBOOK BEGINS HERE**

21 USC 802(6) provides:

"The term 'controlled substance' means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this subchapter. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1954."

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20-300	INTENTIONAL PROGRAM VIOLATIONS IN THE FOOD STAMP PROGRAM (Continued)	20-300
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- .33 One or more [IPVs](#) which occurred prior to the implementation of these penalties shall be considered as only one previous disqualification when determining [which](#) penalty to impose.
  - .34 The CWD shall disqualify only the individual(s) found to have committed the [IPV](#) and not the entire household.
  - .35 Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed, regardless of the eligibility of the disqualified member's household.
  - .36 If the individual is not eligible for the Food Stamp Program at the time the disqualification period is to begin, the period [of disqualification shall start as if the individual was in fact eligible](#).
  - .37 The disqualification of an individual for [an IPV](#) in one political jurisdiction shall be valid in another.
  - .38 The same act of [IPV](#) repeated over a period of time shall not be separated so that separate penalties can be imposed.
  - .39 If the accused household member is found guilty of an [IPV](#) by the court, and the court fails to impose a disqualification penalty, the county shall impose a disqualification period in accordance with the penalties specified in this section, unless contrary to the court order.
- .4 Time Frames for Imposition of Disqualification Penalties
- .41 By Administrative Disqualification Hearing
- If the hearing authority rules that the household member has committed an [IPV](#), the CWD shall disqualify the household member beginning with the first month following the date the household member receives the [Administrative Disqualification Notice](#).

20-300	INTENTIONAL PROGRAM VIOLATIONS IN THE FOOD STAMP PROGRAM (Continued)	20-300
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- .411 Five days from the date the notice is mailed shall be considered sufficient time for the written notice to have been received by the household, provided it has not been returned as undeliverable by the post office.
  
- .42 By Court Order  

If disqualification is ordered by a court of appropriate jurisdiction, but the date for initiating the disqualification period is not specified, the CWD shall initiate the disqualification within 45 days of the date the disqualification was ordered.
  
- .43 By Disqualification Consent Agreement  

If the household member signed the Disqualification Consent Agreement, then the period of disqualification shall begin within 45 days of the date that the consent agreement was signed, unless contrary to a court order.
  
- .5 Reporting Requirements
  - .51 The CWD shall report to FCS information concerning individuals disqualified for an IPV, within 30 days of the date the disqualification took [effect](#). This information shall be reported on the Disqualified Recipient Report (DPS 524).
  
  - .52 The CWD shall establish and maintain a food stamp disqualification file containing all information received from CDSS concerning individuals who have been disqualified in that county or in another political jurisdiction. The CWD shall use this information for the following purposes:
    - .521 To determine eligibility of individual Food Stamp Program applicants prior to food stamp certification in cases where a welfare agency has reason to believe a household member is subject to disqualification in another jurisdiction.
  
    - .522 To ascertain the appropriate penalty to impose based on past disqualification in a case under consideration.



FRAUD AND SUSPECTED LAW VIOLATIONS		
Regulations	INTENTIONAL PROGRAM VIOLATIONS IN THE FS PROGRAM	20-300

20-300 INTENTIONAL PROGRAM VIOLATIONS IN THE FOOD STAMP PROGRAM (Continued) 20-300

- .53 The CWD shall be permitted to use information contained in the food stamp disqualification file for the following purposes:
  - .531 To screen all program applicants prior to certification; and
  - .532 To match the entire disqualification file against the current caseload.
- .54 CWDs shall submit revisions to original disqualification [reports when](#) the disqualification is reversed by a court of appropriate jurisdiction.

NOTE: Authority cited: Sections 10553, 10554 and 18901, Welfare and Institutions Code. Reference: Sections 10553, 10554 and 18901, Welfare and Institutions Code, Public Law (PL) 103-66, Section 13942; PL 104-193, Sections 813, 814, and 820 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); 7 USC 2024(b) and (c); 21 USC 802; USDA Food and Consumer Services, Administrative Notice No. 94-04 dated October 8, 1993; and [Garcia and Zellar v. Concannon et al.](#)







20-351	DEFINITIONS (Continued)	20-351
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- i. (1) Intentional Program Violation (IPV) - "IPV" means that a determination made by a state or federal court, including any determination made on the basis of a plea of guilty or nolo contendere, or pursuant to an administrative disqualification hearing, that an individual has intentionally:
  - (a) Made a false or misleading statement or misrepresented, concealed, or withheld facts; or
  - (b) Committed any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity; and
  - (c) Committed these acts to establish or maintain CalWORKs eligibility, or to increase or prevent a reduction in the amount of the CalWORKs grant.
  
- j. (Reserved)
- k. (Reserved)
- l. (Reserved)
- m. (Reserved)
- n. (1) Notice of Administrative Disqualification - is form ABCD 239.7A (10/95).
- o. (Reserved)
- p. (Reserved)
- q. (Reserved)
- r. (Reserved)
- s. (Reserved)
- t. (Reserved)
- u. (Reserved)
- v. (Reserved)
- w. (Reserved)
- x. (Reserved)

20-352 COUNTY RESPONSIBILITIES (Continued) 20-352

.3 The CWD shall not initiate an administrative disqualification hearing in any jurisdiction against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of appropriate jurisdiction, if the factual issues of the case arise out of the same or related circumstances.

.4 Notice of Administrative Disqualification

.41 The CWD shall mail a Notice of Administrative Disqualification to the accused individual if:

.411 The administrative disqualification hearing or the court finds that the accused individual committed IPV, or

.412 The accused individual has signed a Disqualification Consent Agreement or an Administrative Disqualification Hearing Waiver.

.42 Prior to the disqualification action, the CWD shall send a Notice of Administrative Disqualification to the accused individual.

.421 The notice shall inform the accused individual of the decision, the reason for the decision, and the date the disqualification will take effect.

.422 If the accused individual is no longer on aid, the notice shall inform the individual that the period of disqualification will be deferred until the individual reapplies and is determined to be eligible for benefits.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11486, Welfare and Institutions Code; 7 CFR 273.16(a), (e), (g), and (h); and 45 CFR 235.113(d).



**HANDBOOK BEGINS HERE**

- .1 The following penalties apply to individuals who are found by a state or federal court or by an administrative disqualification hearing to have committed a fraudulent act prior to January 1, 1998:
- .11 Except as provided in Section 20-353.8, individuals found to have committed an IPV either through an administrative disqualification hearing or by a court of appropriate jurisdiction shall be ineligible to receive CalWORKs benefits as follows:
    - .111 Six months for the first violation.
    - .112 Twelve months for the second violation.
    - .113 Permanently for the third violation.
  - .12 Individuals found to have committed an IPV either through an administrative disqualification hearing or by a court of appropriate jurisdiction, based upon submitting more than one application for the same period of time and for the purpose of receiving more than one grant of aid.

or

for submitting documentation for nonexistent children, or submitting false documentation for the purpose of showing ineligible children to be eligible for aid, shall be ineligible to receive CalWORKs benefits as follows:

- .121 Two years for the first violation.
  - .122 Four years for the second violation.
  - .123 Permanently for the third violation.
- .2 The following penalties apply to individuals who are found to have committed a fraudulent act on or after January 1, 1998, by a state or federal court, including any determination made on the basis of a plea of guilty or nolo contendere. The finding that an individual committed a fraudulent act may also be made by an administrative disqualification hearing except as provided in Handbook Sections 20-353.212, .221, and .241.
- .21 Permanent penalty for:
    - .211 Individuals found to have committed any of the following acts:

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**HANDBOOK CONTINUES**

- (a) made fraudulent statements or representations regarding their place of residence, in order to receive assistance simultaneously, from two or more states or counties.
  - (b) submitted false document~~ation~~ation for nonexistent or ineligible children, or
  - (c) received cash benefits in excess of \$10,000 through fraudulent means:
- .212 Individuals convicted of a felony in state or federal court, including any determination made on the basis of a plea of guilty or nolo contendere, for receipt or attempted receipt of cash aid benefits in excess of \$5,000 through fraudulent means:
- .213 Individuals found to have committed, upon the third occasion, any of the following acts:
- (a) making false or misleading statements or misrepresenting, concealing, or withholding facts,
  - (b) committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity; or
- .214 Individuals found to have committed fraud, upon the third occasion, due to the submittal of more than one application for the same type of aid for the same period of time, for the purpose of receiving more than one grant of aid, in order to establish or maintain the family's eligibility for aid, or increasing, or preventing a reduction in the amount of that aid.
- .22 Five-year penalty for:
- .221 Individuals convicted of a felony in state or federal court, including any determination made on the basis of a plea of guilty or nolo contendere, that does not meet the permanent penalty criteria and the overpayment is more than \$2,000 but less than \$5,000.
- .23 Four-year penalty for:
- .231 Individuals found to have committed fraud, upon the second occasion, due to the submittal of more than one application for the same type of aid for the same period of time, for the purpose of receiving more than one grant of aid in order to establish or maintain the family's eligibility for aid, or increasing, or preventing a reduction in the amount of the aid.

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HANDBOOK CONTINUES

- .24 Two-year penalty for:
- .241 Individuals convicted of a felony in state or federal court, including any determination made on the basis of a plea of guilty, that does not meet the permanent penalty criteria and the overpayment is less than \$2,000; or
  - .242 Individuals found to have committed fraud, upon the first occasion, due to the submittal of more than one application for the same type of aid, for the same period of time, for the purpose of receiving more than one grant of aid in order to establish or maintain the family's eligibility for aid, or increasing, or preventing a reduction in the amount of that aid.
- .25 Twelve-month penalty for:
- .251 Individuals found to have committed, upon the second occasion, any of the following acts for the purpose of establishing or maintaining the family's eligibility for aid or increasing, or preventing a reduction in, the amount of that aid:
    - (a) making false or misleading statements or misrepresenting, concealing, or withholding facts; or
    - (b) committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.
- .26 A six-month penalty for:
- .261 Individuals found to have committed, upon the first occasion, any of the following acts for the purpose of establishing or maintaining the family's eligibility for aid or increasing, or preventing a reduction in, the amount of that aid:
    - (a) making false or misleading statements or misrepresenting, concealing, or withholding facts; or
    - (b) committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

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HANDBOOK ENDS

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