

FINAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 63-300.4

Specific Purpose:

This section is being amended to include references to added and renumbered subsequent sections relating to waiving the face-to-face interviews.

Factual Basis:

Assembly Bill (AB) 231 (Chapter 743, Statutes of 2003) adds Section 18901.10 to the Welfare and Institutions Code, and specifically provides the ability to waive face-to-face interviews for applicants. The modification of this section directs the reader to the appropriate subsequent section for application of this rule.

Section 63-300.42

Specific Purpose:

This section is being adopted to include the initial screening process that the eligibility worker must conduct in order to waive the face-to-face interview.

Factual Basis:

AB 231 (Chapter 743, Statutes of 2003), adds Section 18901.10 to the Welfare and Institutions Code, and specifically instructs the county eligibility workers to screen applicants upon application and recertification to see if the applicant meets the criteria for a waiver of the face-to-face interview process.

Post Hearing Modification

Section 63-300.421 (New)

Specific Purpose:

This section is being adopted to include the provision that applicants may still request a face-to-face interview, even if they qualify for an exemption, for purposes of establishing eligibility and to comply with recertification requirements.

Factual Basis:

Although AB 231 (Chapter 743, Statutes of 2003) adds Section 18901.10 to the Welfare and Institutions Code, and specifically provides instruction for screening applicants for face-to-face interview exemptions, it also provides the applicant with the opportunity to request a face-to-face interview even if the applicant qualifies for an exemption.

Post Hearing Modification

Section 63-300.422 (New)

Specific Purpose:

This section is being adopted to include the provision that specifies that counties may still require a personal appearance should the applicant no longer qualify for a face-to-face interview exemption, or for other good cause.

Factual Basis:

This section, as contained in AB 231 (Chapter 743, Statutes of 2003) and Section 18901.10 of the Welfare and Institutions Code, is necessary in order to give the county the authority to require face-to-face interviews if the applicant is no longer eligible for a face-to-face exemption, or if the county should have good cause to require a face-to-face interview.

Sections 63-300.43 through .46

Specific Purpose/Factual Basis:

These sections are being renumbered to maintain uniformity and consistency within the Manual of Policies and Procedures.

Final Modification:

Sections 63-300.451 through .455 are being renumbered for consistency with the previously renumbered sections.

Section 63-504.1

Specific Purpose:

This section is being amended to reflect the addition and renumbering of subsequent sections required to implement transitional food stamp benefits.

Factual Basis:

AB 1752 (Chapter 225, Statutes of 2003) and AB 231 (Chapter 743, Statutes of 2003) amends Section 18901.6 of the Welfare and Institutions Code, which establishes transitional food stamp benefits. As a result, regulatory language must be added, and existing regulatory language must be renumbered to maintain uniformity and consistency. Those changes are reflected in this section.

Section 63-504.123(b)

Specific Purpose:

This section is being amended to reflect the addition and renumbering of subsequent sections required to implement transitional food stamp benefits.

Factual Basis:

AB 1752 (Chapter 225, Statutes of 2003) and AB 231 (Chapter 743, Statutes of 2003) amend Section 18901.6 of the Welfare and Institutions Code, which establishes transitional food stamp benefits. As a result, regulatory language must be added, and existing regulatory language must be renumbered to maintain uniformity and consistency. Those changes are reflected in this section.

Section 63-504.13

Specific Purpose:

This section is adopted to incorporate changes regarding the new statutory requirements establishing transitional food stamps.

Factual Basis:

This section is necessary to adopt into regulations AB 1752 (Chapter 225, Statutes of 2003) and AB 231 (Chapter 743, Statutes of 2003) which became effective on August 9, 2003 and October 9, 2003, respectively. AB 1752 adds Section 18901.6 and AB 231 amends Section 18901.6 of the Welfare and Institutions Code that establishes transitional food stamps. AB 1752 adopts provisions in the Farm Security and Rural Investment Act of 2002, Public Law 107-171, Section 4115 (Farm Bill) that gives states the option of providing transitional food stamp benefits.

Section 63-504.131 et seq.

Specific Purpose:

This section is adopted to establish criteria for transitional food stamp eligibility, in accordance with new statutory requirements.

Factual Basis:

This section is necessary to adopt into regulations AB 1752 (Chapter 225, Statutes of 2003 and AB 231 (Chapter 743, Statutes of 2003) which became effective on August 9, 2003 and October 9, 2003, respectively. AB 1752 adds Section 18901.6 and AB 231 amends Section 18901.6 of the Welfare and Institutions Code that establishes transitional food stamps. AB 1752 adopts provisions in the Farm Security and Rural Investment Act of 2002, Public Law 107-171, Section 4115 (Farm Bill) that gives states the option of providing transitional food stamp benefits.

Section 63-504.132

Specific Purpose:

This section is being adopted to indicate the commencement for eligibility for transitional food stamp benefits.

Factual Basis:

This section is necessary to adopt into regulations AB 1752 (Chapter 225, Statutes of 2003) and AB 231 (Chapter 743, Statutes of 2003) which became effective on August 9, 2003 and October 9, 2003, respectively. AB 1752 adds Section 18901.6 and AB 231 amends Section 18901.6 of the Welfare and Institutions Code that establishes transitional food stamps. AB 1752 adopts provisions in the Farm Security and Rural Investment Act of 2002, Public Law 107-171, Section 4115 (Farm Bill) that gives states the option of providing transitional food stamp benefits.

Final Modification:

PA is changed to CalWORKs to correctly identify the term for clarity and consistency.

Section 63-504.132(a)

Specific Purpose:

This section is being adopted to indicate the calculation of transitional food stamp benefits that a household is entitled to upon termination in the CalWORKs program.

Factual Basis:

This section is necessary to adopt into regulations AB 1752 (Chapter 225, Statutes of 2003) and AB 231 (Chapter 743, Statutes of 2003) which became effective on August 9, 2003 and October 9, 2003, respectively. AB 1752 adds Section 18901.6 and AB 231 amends Section 18901.6 of the Welfare and Institutions Code that establishes transitional food stamps. AB 1752 adopts provisions in the Farm Security and Rural Investment Act of 2002, Public Law 107-171, Section 4115 (Farm Bill) that gives states the option of providing transitional food stamp benefits.

Section 63-504.132(a) (Handbook)

Specific Purpose:

This handbook section is necessary to further define how transitional food stamp benefits shall be determined.

Factual Basis:

This handbook section is necessary to ensure that the application and calculation of benefits is uniformly and correctly applied in accordance with provisions in the Farm Security and Rural Investment Act of 2002, Public Law 107-171, Section 4115.

Final Modification:

Sentences were combined and rewritten to provide better explanation and greater clarity.

Post Hearing Modification

Section 63-504.132(b) (New)

Specific Purpose:

This section is adopted to instruct counties on the reporting requirements for changes in the household's circumstances during the transition benefit period.

Factual Basis:

This section is necessary to adopt into regulations AB 1752 (Chapter 225, Statutes of 2003) and AB 231 (Chapter 743, Statutes of 2003) which became effective on August 9, 2003 and October 9, 2003, respectively. AB 1752 adds Section 18901.6 and AB 231 amends Section 18901.6 of the Welfare and Institutions Code that establishes transitional food stamps. AB 1752 adopts provisions in the Farm Security and Rural Investment Act of 2002, Public Law 107-171, Section 4115 (Farm Bill) that gives states the option of providing transitional food stamp benefits.

Post Hearing Modification

Section 63-504.132(c) (New)

Specific Purpose:

This section is being adopted to instruct counties when a person leaves the Transitional Food Stamp (TFS) household and is approved for benefits in another food stamp household.

Factual Basis:

This section is necessary to adopt into regulations AB 1752 (Chapter 225, Statutes of 2003) and AB 231 (Chapter 743, Statutes of 2003) which became effective on August 9, 2003 and October 9, 2003, respectively. AB 1752 adds Section 18901.6 and AB 231 amends Section 18901.6 of the Welfare and Institutions Code that establishes transitional food stamps. AB 1752 adopts provisions in the Farm Security and Rural Investment Act of 2002, Public Law 107-171, Section 4115 (Farm Bill) that gives states the option of providing transitional food stamp benefits.

Section 63-504.132(b) (Renumbered to Section 63-504.132(d) post hearing)

Specific Purpose:

This section is being adopted to indicate the certification period for transitional food stamp benefits.

Factual Basis:

This section is necessary to adopt into regulations AB 1752 (Chapter 225, Statutes of 2003) and AB 231 (Chapter 743, Statutes of 2003) which became effective on August 9, 2003 and October 9, 2003, respectively. AB 1752 adds Section 18901.6 and AB 231 amends Section 18901.6 of the Welfare and Institutions Code that establishes transitional food stamps. AB 1752 adopts provisions in the Farm Security and Rural Investment Act of 2002, Public Law 107-171, Section 4115 (Farm Bill) that gives states the option of providing transitional food stamp benefits.

Final Modification:

This section is renumbered to Section 63-504.132(d) because of the addition of new Sections 63-504.132(b) and (c).

Section 63-504.132(c) (Incorporated into Section 63-504.132(d) post hearing)

Specific Purpose:

This section is adopted to instruct counties of noticing requirements when there is a change in the household's certification period.

Factual Basis:

This section is necessary to adopt into regulations AB 1752 (Chapter 225, Statutes of 2003) and AB 231 (Chapter 743, Statutes of 2003) which became effective on August 9, 2003 and October 9, 2003, respectively. AB 1752 adds Section 18901.6 and AB 231 amends Section 18901.6 of the Welfare and Institutions Code that establishes transitional food stamps. AB 1752 adopts provisions in the Farm Security and Rural Investment Act of 2002, Public Law 107-171, Section 4115 (Farm Bill) that gives states the option of providing transitional food stamp benefits.

Final Modification:

This section is incorporated into renumbered Section 63-504.132(d) for clarity.

Section 63-504.132(c) (Handbook) (Renumbered to Section 63-504.132(d) (Handbook) post hearing)

Specific Purpose:

This handbook section is being added to further clarify the certification period, and to inform the counties of the requirement of the household to reapply should the household wish to continue receiving regular food stamp benefits.

Factual Basis:

This section is necessary to ensure the correct application of the Farm Security and Rural Investment Act of 2002, Public Law 107-171, Section 4115 (Farm Bill).

Final Modification:

This handbook section is renumbered for consistency.

Section 63-504.132(d) (Renumbered to Section 63-504.132(e) post hearing)

Specific Purpose:

This section is being adopted to inform counties of the requirement to send timely notice to the household prior to the expiration of transitional benefits.

Factual Basis:

This section is necessary to adopt into regulations AB 1752 (Chapter 225, Statutes of 2003) and AB 231 (Chapter 743, Statutes of 2003) which became effective on August 9, 2003 and October 9, 2003, respectively. AB 1752 adds Section 18901.6 and AB 231 amends Section 18901.6 of the Welfare and Institutions Code that establishes transitional food stamps. AB 1752 adopts provisions in the Farm Security and Rural Investment Act of 2002, Public Law 107-171, Section 4115 (Farm Bill) that gives states the option of providing transitional food stamp benefits.

Final Modification:

A second sentence was added to this section to provide clarity and to instruct counties when to provide the TFS household a timely notice of action.

Sections 63-504.14 through .17

Specific Purpose:

These sections are being renumbered due to the inclusion of regulatory language in order to implement transitional food stamp benefits.

Factual Basis:

These sections are being renumbered to maintain uniformity and consistency within the Manual of Policies and Procedures.

b) Identification of Documents Upon Which Department Is Relying

AB 1752 (Chapter 225, Statutes of 2003)

AB 231 (Chapter 743, Statutes of 2003)

Farm Security and Rural Investment Act of 2002, Public Law 107-171, Section 4115

c) Local Mandate Statement

These regulations do impose a mandate upon local agencies, but not school districts. There are “state-mandated local costs” in these regulations, which require federal and state reimbursement due to increased administrative costs under Section 17500 et seq. of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

d) Statement of Alternatives Considered

CDSS has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

f) Testimony and Response:

These regulations were considered at the Department's public hearings held on May 19, 2004. Written testimony was received from the Children's Advocacy Institute.

Section 63-300.4

1. Comment:

“New section 18901.10 of the Welfare and Institutions Code (created by AB 231) essentially changed the presumption from mandating that all county welfare departments (CWDs) conduct face-to-face interviews with all applicants for food stamps both at initial certification and recertifications *unless there is a hardship* to **mandating that all CWDs exempt households from complying with the face-to-face interview requirement when appropriate**. Although this change may seem subtle, it will cut down substantially on the time and resources required of CWDs if these regulations are implemented properly and fewer face-to-face interviews are performed by county workers. The proposed language in section 63-300.4 does not comport with the intent of the statute; in particular, the presumption to favor alternatives to face-to-face interviews is not apparent from the language. The Department's proposed section 63-300.4 reads in part as follows:

“All applicant households including those submitting applications by mail, *shall have face-to-face interviews* in a food stamp office or other mutually acceptable location, including a household's residence, with a qualified eligibility worker prior to initial certification and all recertifications *except when waived* in accordance with Section 63-300.42 and .43, and .44. (Emphasis added).

“More appropriate language would mirror the language in section 18901.10. For example, “*when appropriate*, county welfare departments *shall exempt* a household from complying with face-to-face interview requirements for purposes of determining eligibility at initial application or recertification. County welfare departments shall screen each household's need for exemption status at application

and recertification.” (Emphasis added). The Department should then describe what are “appropriate” circumstances for exempting a household, which are essentially the hardship reasons stated in existing sections 63-300.42 and .43. The Department should also provide guidance on how CWDs should “screen” guidance: “the screening envisioned is less formal and demanding than the ‘determination’ or ‘assessment’ required in earlier versions of the bill, permitting a cursory consideration of the need for an exemption” (available at http://leginfo.ca.gov/pub/bill/asm/ab_0201-0250/ab_231_cfa_20030911_011939_asm_floor.html, pages 4-5_.

“The remainder of section 63-300.4 outlining the procedures for interviews at the household’s residence should be set out in a separate subsection for more clarity. Also, there is language in existing MPP sections 63-300.454 and .455 that appears to conflict with AB 231 and the regulations as proposed by the Department. The remainder of the “Interviews” section (63-300.4) should be closely scrutinized for consistent procedures and terminology.

“Finally, the language in subsections (b) and (c) of 18901.10 has not been incorporated into the proposed regulations. These are important provisions that allow individuals receiving food stamps to request a face-to-face interview in order to meet program requirements, and also clarify that CWDs may still require applicants or recipients of food stamps to make a personal appearance at a CWD office if the person “no longer qualifies for an exemption or for other good cause.” It is imperative that the Department provide guidance as to how this language should be interpreted, for example, what constitutes “good cause” and what procedures should be put in place so that a county does not overuse subsection (c) in particular.”

Response:

CDSS agrees, in part, with the comments.

AB 231 enacted changes to the Welfare and Institutions Code, Section 18901.10, to read:

“To the extent permitted by federal law, and subject to the limitation in subdivision (c), each county welfare department shall, if appropriate, exempt a household from complying with face-to-face interview requirements for purposes of determining eligibility at initial application and recertification, according to the following:

“(a) The county welfare department shall screen each household’s need for exemption status at application and recertification.”

This language specifies that the interview shall be waived in accordance with the subsequent subsections, which state that the household shall be screened for the need for an exemption. Additionally, CDSS is bound by federal law. Part 7 of the Code of

Federal Regulations (7 CFR), under Section 273.2(e)(1), states, “All applicant households, including those submitting applications by mail, shall have face-to-face interviews in a food stamp office or other certification site with a qualified eligibility worker prior to initial certification and all recertifications.” 7 CFR 273.2(e)(2) lists the circumstances under which a household may be entitled to a face-to-face interview exemption. CDSS feels that our regulatory language in MPP 63-300.42 is appropriate in that the regulations mandate that counties screen applicants for the need to have face-to-face interviews, and if mutually acceptable accommodations cannot be made, the county shall then evaluate whether the household qualifies for an exemption in accordance with existing criteria. AB 231 does not implement nor create further hardship exemptions, nor does it bypass the current exemption process. We believe that the regulations, as written, comply with both federal law and the intent of AB 231.

CDSS agrees with the comments regarding subsections (b) and (c) of Welfare and Institutions Code Section 18901.10, and will incorporate said subsections into MPP Section 63-300.4.

Section 63-504.13

2. Comment:

“Proposed section 63-504.131(b) states that is (sic) a household loses its benefits under CalWORKs or the food stamp program due to a sanction, the five months of transitional food stamp benefits will not be provided. There are two problems with this limitation. One, if the household or individual is no longer receiving CalWORKs benefits (the purpose of the language in AB 231 was to provide transitional food stamps after cash aid is terminated), how can the individual be sanctioned under the CalWORKs program? Second, I am unable to identify any statutory language allowing CWDs to deny transitional food stamp assistance if the person is being sanctioned under either the food stamp program or the CalWORKs program. If such statutory authority exists, please identify the code section(s) or regulation(s).”

Response:

CDSS disagrees with the comment. AB 231 (Chapter 743, Statutes of 2003) required the state to implement transitional food stamps to the maximum extent allowable by federal law. Title IV of the Farm Bill (HR 2646) - The “Food Stamp Reauthorization Act of 2002,” Section 4115(5), requires that a household would not be eligible for TFS if it was losing Temporary Assistance for Needy Families cash assistance because of a sanction, was disqualified from the FSP, or is in a category of households designated by the State as ineligible for transitional benefits. A household can receive a sanction for a variety of reasons including intentional program violations, fraud, and non-compliance with quality control (QC) reviews.

Section 63-504.132(c)

3. Comment:

“New section 63-504.132(c) repeats the last sentence in section 63-504.132(b). Unless there is a purpose, subsection (c) should be stricken.”

Response:

CDSS agrees and the section will be combined and rewritten to provide greater clarity.

Sections 63-504.132(b), (c), and (d)

4. Comment:

“The language contained in subsections 63-504.132(b), (c) and (d) implies that the CWDs must send out two separate notices to recipients of transitional benefits; one notifying the household of the change in their certification period, and another notifying the household of the expiration of the end of the transitional benefit period. It seems that in the first notice the county could notify recipients of transitional benefits of their certification period, the proposed date of expiration, and how to get additional food stamp benefits after that period. This would better prepare recipients for the time period after their transitional benefits expire.”

Response:

CDSS agrees in part with the comment and the section will be reworded to provide greater clarity. A new form for TFS has been developed. This form is intended to notify the household to both the change in their certification period and the proposed date of expiration of their TFS benefits. CDSS will review the form with the intent of providing additional language on the form regarding food stamp benefits after the end of the TFS period.

5. Comment:

“Although the handbook states that households that want to continue receiving food stamp benefits after the transitional period must submit an application for regular food stamp benefits, there is no corresponding requirement that the CWDs notify the household of this information (but they should in the same notice, see previous paragraph). The end result seems to discourage continuous coverage for eligible recipients beyond the transitional period. Instead of requiring an entirely new application for regular food stamp benefits, it would be easier and more efficient for county workers to just recertify the household at the end of the transitional period so the household continues to receive benefits to which they are entitled.”

Response:

CDSS agrees in part with the comments and will review the TFS form with the intent of providing additional language on the form regarding food stamp benefits after the end of the TFS period. However, CDSS disagrees with the rest of the comments. Once the client is moved to TFS they are no longer required to report changes. Since the worker is required to collect all new information on the household it is in the best interest of the CWD and the client to submit a new application.

g) 15-Day Renotice Statement

A 15-Day Renotice was held from November 5, 2004 to November 22, 2004. No comments were received as a result of this renotice.