

FOOD STAMP PROGRAM REQUEST FOR REGULATION INTERPRETATION

INSTRUCTIONS: Complete items 1 - 10 on the form. Use a separate form for each policy interpretation request. Retain a copy of the FS 24 for your records. For counties asking for policy interpretations, submit the question directly to a FRAT representative via e-mail. For other organizations (e.g., Quality Control, Administrative Law Judges), submit questions directly to the Food Stamp Policy Implementation Unit or Employment and Special Projects Unit representative via e-mail.

1. RESPONSE NEEDED DUE TO:
 Policy/Regulation Interpretation
 QC
 Fair Hearing
 Immediate Need/Emergency Services
 Other:

5. DATE OF REQUEST: 8/13/2012
 NEED RESPONSE BY: asap

6. COUNTY/ORGANIZATION:
 SHD

7. SUBJECT:
 application of three year statute of limitations to collect an IHE

2. REQUESTOR NAME:
 Deborah Smaller

8. REFERENCES: (Include ACL/ACIN, court cases, etc. in references)
 NOTE: All requests must have a regulation cite(s) and/or a reference(s).

3. PHONE NO.:
 619-521-8023

ACIN No. I-03-02

4. REGULATION CITE(S):
 §63-801.111

9. QUESTION: (INCLUDE SCENARIO IF NEEDED FOR CLARITY):

I am reviewing a decision in which the claimant has requested a rehearing to dispute the judge's upholding of the county's right to demand that she repay a \$4345 CalFresh overissuance for the period of August 2007 through July 2009, \$2920 of which the county had already collected through a federal tax intercept.

The evidence in this case indicates that the county sent the claimant's ex-husband a notice of action dated June 27, 2011 in which it informs him of a \$4345 CalFresh overissuance. A review of the notice reveals that it is legally inadequate for not including the computations on which it based this overissuance. There was no evidence presented that the claimant's ex-husband requested and participated in a state hearing in response to this notice.

~~The claimant requested a state hearing on April 9, 2012 in response to an INS tax intercept notice, dated March 14, 2012, informing her~~

10. REQUESTOR'S PROPOSED ANSWER:

It is my first impression that the 2012 INS letter would not constitute a "demand letter" referred to in ACIN I-03-02 and, therefore, the county cannot collect against the claimant, because it did not meet the statute of limitations under Sec. 63-801.111.

This belief is based on the fact that the letter from INS does not meet the requirements for legal adequacy of notice under CDSS regulations and federal regulations.

11. FRAT RESPONSE TO COUNTY QUESTION:

12. STATE POLICY RESPONSE (FSPIU USE ONLY):

The household was adequately noticed of the overissuance by the county June 27, 2011 per MPP 63-801.431. When the NOA was issued to the HH on June 27, 2011, counties were not required to include an overissuance budget worksheet. ACL 11-26 dated March 14, 2011 requires counties to comply with the Heathcock lawsuit which mandates overissuance NOAs include an overissuance budget worksheet within six months of the date of the ACL issuance. Therefore, all overissuance NOAs must include an overissuance budget worksheet after September 14, 2011.

Additionally, Per MPP 63-801.1, all adult household members shall be jointly and individually liable for the value of any overissuance of benefits to the household. Therefore, since the HH was sufficiently noticed of the overissuance and the wife was part of the HH when the overissuance occurred, the tax intercept was an appropriate action.

FOR FRAT USE

DATE RECEIVED:

DATE RESPONDED TO COUNTY:

DATE FORWARDED TO STATE:

