CALFRESH (CF) PROGRAM
REQUEST FOR POLICY/REGULATION INTERPRETATION

INSTRUCTIONS: Complete items 1 - 10 on the form. Use a separate form for each policy interpretation request. If additional space is needed, please use the second page. Be sure to identify the additional discussion with the appropriate number and heading. Retain a copy of the CF 24 for your records.

- Questions from counties, including county Quality Control, must be submitted by the county CalFresh Coordinator and may be submitted directly to the CalFresh Policy analyst assigned responsibility for the county, with a copy directed to the appropriate CalFresh Policy unit manager.
- Questions from Administrative Law Judges may be submitted directly to the CalFresh Policy analyst assigned responsibility to the county where the hearing took place, with a copy of the form directed to the appropriate CalFresh Bureau unit manager.

1. RESPONSE NEEDED DUE TO:
   - [x] Policy/Regulation Interpretation
   - [ ] QC
   - [x] Fair Hearing
   - [ ] Other:

2. REQUESTOR NAME: Adrienne M. Porter, ALJ I

3. PHONE NO.: 760-510-4999

4. REGULATION CITE(S): MPP 63-801.311(b), MPP 801.111

5. DATE OF REQUEST: 10/31/14 NEED RESPONSE BY: 11/5/14

6. COUNTY/ORGANIZATION: San Bernardino County

7. SUBJECT: CalFresh Overissuance Statute of Limitations

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

ACIN I-52-02; ACIN I-03-02, ACIN I-24-13, ACL 13-79,

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

County alleges the claimant has a CF overissuance for the period January 2011 - August 2014. The evidence shows this is actually four distinct periods: Jan - July 2011; September 2011 – July 2012; November 2012 – September 2013; and March 2014 – August 2014. County sent NOA on 7/31/14 citing the period of overissuance as January 2011 - August 2014.

The three most recent periods (starting September 2011) are timely noticed, as they are were discovered within 3 years. However, the first period of Jan - July 2011 was untimely, as the NOA was more than three years after May 2011. In this situation, does the 6 year collection time period operate to allow the County to collect the overissuance from Jan - July 2011, or would it only allow collection if the period of Jan 2011 - August 2014 was one, continual period of time with no breaks?

10. REQUESTOR'S PROPOSED ANSWER:

The six year calculation time frame operates to allow the County to collect any overissuance occurring during the six years preceding the timely discovery of an period of overissuance. In other words, if the County discovers an overissuance within three years of the last month of the overissuance period, the County may go back up to six years to collect any overissuance in that overissuance period.

In this case, there is not just one continual period of overissuance, but four distinct periods. The 6 year calculation can only extend through one continual period, not to an earlier, distinct, overissuance period that was not discovered within 3 years of the overissuance period. Therefore, the statute of limitations bars the overissuance for the period of January - July 2011. The County has timely discovered the overissuance for the periods of September 2011 - July 2012; November 2012 - September 2013; and March 2014 - August 2014 and may collect on the overissuance in those periods.

11. STATE POLICY RESPONSE *(CFPB USE ONLY)*:

CWDs have three years from the date of the AE OI occurrence to establish the OI (63-801.111) and six years preceding the date the AE OI was discovered to calculate the amount of the overissuance (63-801.311(b)). There is no precedence to separate claims and treat them individually if they are the same type of claim even if the OI is not continuous. Therefore the county's action is/was correct.

FOR CDSS USE

DATE RECEIVED: 11/3/14

DATE RESPONDED TO COUNTY/ALJ: 11/14/14sc

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   - ☑ Policy/Regulation Interpretation
   - ☐ QC
   - ☑ Fair Hearing
   - ☐ Other:

2. REQUESTOR NAME:
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