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: Marjorie Mullan

3. PHONE NO.: 707-463-7852

4. REGULATION CITE(S): 63-102(h)(2), 63-401, 63-504.266(b)

5. DATE OF REQUEST: 1-24-14

NEED RESPONSE BY: 3-24-14

6. COUNTY/ORGANIZATION: Mendocino County

7. SUBJECT: Residency & EBT Usage

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

ACL10-01 pg, 2 paragraphs 4 & 5, pg. 3, paragraph 3, pg. 5. paragraphs 5 & 6.

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

Customer applied for CalFresh in 9/2010 in Mendocino County and was approved for NA CalFresh benefits as a homeless person, change reporting only, for 9/2010. She continued to receive benefits through August 31, 2011 when she was discontinued for not completing a recertification. December 2010 through August 2011 the customer did not use her EBT card in Mendocino County at all. She did not apply for or receive CalFresh benefits in any other county or state during this time.

Should the county be assessing an overissuance for the months EBT usage shows the client used her card out of the county or state?

1-24-14 Update Additional Question: See Back Page.

10. REQUESTOR'S PROPOSED ANSWER:

Regulations provide that a household must be living in the county in which it files an application, but that the county shall not impose any durational residency requirements nor shall residency require an intent to remain permanently in the county. The county shall not require an otherwise eligible household to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility. In this customer was living in Mendocino County at the time that she filed her application.

She stated on the application that she was homeless, and gave as a mailing address General Delivery in a town in the county. The customer did not establish a new address or a new residence in any other county.

1-24-14 Update Additional Answer: See Back Page.

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

Based on the facts of this case where the recipient is a homeless individual (and therefore a change reporting household), provided a General Delivery mailing address on the original application in Mendocino County and never applied for benefits in another county, the recipient should be discontinued from CalFresh but no overissuance should be applied. MPP 63-504.266 and ACL 10-01 provides specific guidance regarding change reporting households: the CWD determines, based on reliable information, that the household will not be residing in the county of benefit issuance should be discontinued from CalFresh and that no notice is required to be sent to discontinue the household.

1/14/14: Regarding out of county/state EBT usage: The county should not assess an OI on a case where the EBT card has been used out of state/county. There is no evidence or additional information to clearly state that the client was ineligible for benefits.

FOR CDSS USE

DATE RECEIVED:	DATE RESPONDED TO COUNTY/ALJ:
5/3/13	5/14/13 and 1/14/14 JN

CALFRESH (CF) PROGRAM
REQUEST FOR POLICY/REGULATION INTERPRETATION (Continued)

1. RESPONSE NEEDED DUE TO: ☐ Policy/Regulation Interpretation ☐ QC ☐ Fair Hearing ☐ Other:	5. DATE OF REQUEST: NEED RESPONSE BY: 6. COUNTY/ORGANIZATION: 7. SUBJECT:
2. REQUESTOR NAME: 3. PHONE NO.: 4. REGULATION CITE(S): EBT Regulations at MPP 16-005(i)(1)	8. REFERENCES: *(Include ACL/ACIN, court cases, etc. in references)* **NOTE: All requests must have a regulation cite(s) and/or a reference(s).**

In the CalFresh program, ACL 10-01 provides direction to counties in dealing with issues of EBT transactions other than in the county of issuance. The ACL states that "If it is discovered that an FSP household is purchasing food, other than in the county of residence and benefit issuance, or purchasing food out of state, the CWD cannot assume a loss of residence and immediately terminate the household or refer the household to the SIU. The CWD must first determine if there is reliable information, such as a pattern of returned mail, attempts by the CWD to reach the household which have failed, appointments for recertification which are sent and returned, a call from another county indicating an application has been made in the other county, etc. [MPP Sections 63-401 and 63-504.266(b)], which indicates a loss of residency in the county of benefit issuance. In this case, there were two occasions of returned mail, first in December 2010 and then again in July 2011 (her recertification appointment).

For the CalFresh program the ACL does not define benefits received while in transition from one county to another, or even to another state, as an overissuance. The ACL indicates that the correct county action, when a recipient's residence in another county is established, is discontinuance. The most basic principle governing the use of the EBT system is that it be interoperable, as required by the federal government and Welfare and Institutions Code Section 10072. That is, benefits can be accessed in a state or county other than the state or county that issued the benefits and EBT card. This means that the AU/household should be able to access their accounts from anywhere in the country where EBT benefits are redeemed." This means that transaction of benefits in a place other than the county of issuance is an expected and planned-for activity under this program, and does not per se constitute a violation of the program regulations.

Therefore I believe a discontinuance would be appropriate but not an overissuance.

1-24-14 Update:

#9. QUESTION: Is there any durational limit on out of county usage? Such as a household using their card in another state longer than 90 days, continuously. Should it make a difference if the household is homed or homeless.

#10. REQUESTOR'S PROPOSED ANSWER: I can find no regulation or ACL/ACIN that gives direction regarding durational limits on out of county/state usage. Mendocino County has policy that if EBT usage out of county is more than 90 days workers are to discontinue. I do not support this. I do not believe there should be a durational limit on homeless households. I do think that homed households should at the minimum tried to be reached by the county for an explanation for continued out of county/state usage.

#11. STATE POLICY RESPONSE:
1/29/30: While there is no time limit for out of state/county usage, it has been advised in ACL10-44 (dated October 6, 2010), "...that when 100 percent of the EBT transactions in a month are occurring outside of California, the family may no longer be residing in the state. Counties are required to follow the instructions specified in ACL No. 10-01, issued on January 29, 2010, when an individual's residency comes into question." The ACL also reminds counties of the ability to utilize EBT transactions reports that are available that may help in identifying those households no longer living in the state/county. In addition, MPP 63-300.5(a)(2) gives the county direction for obtaining verification from a household to clearly determine eligibility. It should be noted that CDSS and CWDA will be working on a policy for EBT usage outside of the county/state in which the household applied for benefits.