

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:		5. DATE OF REQUEST:	NEED RESPONSE BY:
<input type="checkbox"/> Policy/Regulation Interpretation <input type="checkbox"/> QC <input checked="" type="checkbox"/> Fair Hearing <input type="checkbox"/> Other:		6-5-13	As soon as possible
2. REQUESTOR NAME: James F. Feutz, ALJ - DSS		6. COUNTY/ORGANIZATION: San Francisco	
3. PHONE NO.: 415-845-7395		7. SUBJECT: 3 year limitation to establish an overissuance	
4. REGULATION CITE(S): 7 CFR 273.18(e); §63-801.111-.112; ACIN No. I-03-02.		8. REFERENCES: (Include ACL/ACIN, court cases, etc. in references) NOTE: All requests must have a regulation cite(s) and/or a reference(s). See paragraphs 9 and 10	

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

On November 3, 2009, the county issued a \$478 CalFresh administrative error overissuance notice of action (NOA). The NOA was inadequate because it did not contain information on how the overissuance was calculated. (MPP §63-801.431 (a) All County Information Notice I-16-05, April 4, 2005). Because the overissuance NOA was inadequate, it did not start the running of the 90 day limitations period for requesting a state hearing, and therefore the claimant's March 22, 2013 hearing request was timely. (MPP §§22-071.1 and 22-001a). A hearing was held on April 18, 2013, in which the claimant also established that she did not receive the NOA and was first notified about the alleged overissuance in 2013 when she received a county collection letter.

(Text continued on next page)

10. REQUESTOR'S PROPOSED ANSWER:

The county must administer the CalFresh program in compliance with the Federal Food Stamp Act and the accompanying regulations. 7 U.S.C.S. § 2020, 7 CFR §273.18(a)(2)-(3). The federal regulations include the due process notification requirements of 7 CFR 273.18(e)(3) which specify the information that a claimant "must" be provided in the initial demand letter or notice of adverse action" to "begin collection on any claim". This required information is not limited to the amount of the claim but "must include" "How the claim was calculated." 7 CFR 273.18 (e) (3)(iv). Contrary to the federal requirement, the NOA only included the amount of the claim.

(Text continued on next page)

11. STATE POLICY RESPONSE (CFPB USE ONLY):

Based on the information provided, and that the overissuance notice of action (NOA) did not include the how the claim was calculated on the NOA or as an attachment, the State concurs with the proposed response. To establish and overissuance, counties must comply with 7 CFR §273.18(a)(2)-(3) to provide a CalFresh household with an overissuance NOA containing information on how the claim was calculated either on the form or as an attachment pursuant to 7 CFR 273.18 (e) (3)(iv) and the information requirements as clarified in ACIN I-16-05.

FOR CDSS USE

DATE RECEIVED:

DATE RESPONDED TO COUNTY/ALJ:

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

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(Continued text from paragraph 9)

At the hearing, the claimant contended that the NOA was also inadequate to stop the 3 year limitation period from running on the overissuance because federal law required the NOA to have included how the claim had been calculated. By failing to provide the required information, the claimant maintained that the county had not "established" its overissuance claim within 3 years of the asserted January through March 2009 overissuance as required by federal law and the California regulations. (7 CFR §273.18(e)(3); §63-801.111 and .112; ACIN No. I-52-02, July 22, 2002, Question1; ACIN No. I-03-02, January 14, 2002, Question 1a).

(Continued text from paragraph 10)

CalFresh recipients are, by definition, low-income persons who lack the financial resources to correct an alleged overissuance with ease by repayment or to hire legal counsel to aid in the interpretation of the notice they receive. Therefore, to establish an overissuance claim, the county's notice of adverse action or demand letter must meet the exacting federal due process requirements so as to fully and timely inform CalFresh recipients regarding the county's proposed action.

Having not complied with the federal 7 CFR 273.18 (e) (3) due process requirements for establishing a claim, the NOA was inadequate to stop the 3 year limitation period from running, and the county is therefore barred from collecting the alleged \$478 administrative error overissuance.