

SUMMARY

Contra Costa County correctly established a customer caused CalWORKs overpayment in the amount of \$2,260.00 occurring during the period of July 2023 and August 2023 (Claim# 815346991).

Contra Costa County incorrectly established an inadvertent household error CalFresh overissuance in the amount of \$1,292.00 occurring during the period of July 2023 and August 2023 (Claim# 815347003). The correct overissuance is \$646.00 for the month of August 2023 only.

[150-2] [292-3]

FACTS

By notice of action dated November 20, 2024, Contra Costa County (County) established a customer caused CalWORKs overpayment in the amount of \$2,260.00 occurring during the period of July 2023 and August 2023 (Claim# 815346991).

By notice of action dated November 20, 2024, County established an inadvertent household error CalFresh overissuance in the amount of \$1,292.00 occurring during the period of July 2023 and August 2023 (Claim# 815347003).

On November 26, 2024, Claimant requested a hearing disputing the CalWORKs overpayment and CalFresh overissuance (Exhibit A).

At the hearing on February 24, 2025, Claimant, a Spanish language interpreter, and County Representative appeared by telephone. County Representative submitted a Statement of Position (SOP) with eleven (11) attachments setting forth the factual and legal bases for County's action (Exhibit 1). At the request of this Administrative Law Judge, County submitted "V's" U Visa (Exhibit 2) and a list of Claimant's CalSAWs images received by County (Exhibit 3)

A continued hearing was held on February 27, 2025, by agreement of the parties. Claimant, a Spanish language interpreter, and County Representative appeared by telephone.

It is undisputed that no one in Claimant's CalFresh household or CalWORKs assistance unit is considered elderly or disabled. Claimant is assigned to Semi Annual Report (SAR) cycle 6 with data months April/October and submit months May/November.

County Representative testified that Claimant's CalWORKs assistance unit and CalFresh household consists of three people, Claimant and two children. County Representative testified that Claimant's spouse "V" is excluded from the assistance unit and household due to immigration status. County Representative testified that on May 9, 2023, County mailed Claimant a Reporting Changes for Cash Aid and CalFresh (SAR 2) notice with Claimant's Income Reporting Threshold (IRT) and income reporting

instructions (Exhibit 1, Attachment 3). County Representative testified that on July 10, 2023, County mailed Claimant a Notification of New Employment (SAWS 30) informing Claimant of her IRT and income reporting instructions (Exhibit 1, Attachment 4).

County Representative testified that on April 29, 2024, an IEVS Integrated Fraud Detection report was reviewed for July 2023 through September 2023. County Representative testified that the report showed that "V" had earned income (Exhibit 1, Attachment 5). County Representative testified that County retrieved payroll records from the Work Number Report and requested income verification (GEN 201) from Claimant (Exhibit 1, Attachment 7). County Representative testified that Claimant did not provide income verification.

County Representative testified that on November 20, 2024, County reviewed Claimant's case and determined that "V" started working in May 2023 and that his income exceeded IRT on June 9, 2023, for an assistance unit and household size of three. County Representative testified that "V's" income continued to exceed IRT through April 2024.

County Representative testified that Claimant was required to report this income within days or by June 19, 2023. County Representative testified that County calculated the overpayment and overissuance by using "V's" actual income (Exhibit 1, Attachment 8). County Representative testified that Claimant had a shelter expense of \$1,250.00 and was allowed the Standard Utility Allowance (SUA). County calculated "V's" income as follows:

July 2023

$\$2,803.00$ (7/10/2023) + $\$2,520.00$ (7/25/2023) = $\$5,323.00$

August 2023

$\$3,200.00$ (8/10/2023) + $\$1,200.00$ (8/25/2023) = $\$4,400.00$

(Exhibit 1, Attachment 6)

County calculated the CalWORKs overpayment as follows:

Assistance Unit:	3	3
Excluded Unit:	1	1
Region	1	1
Exempt?	No	No
Payment Month:	07/23	08/23
Gross Earned Inc.:	\$5,323.00	\$4,400.00

Income Deduction:	\$600.00	\$600.00
50% Deduction:	\$2,361.50	\$2,361.50
Net Earned Inc.:	\$2,361.00	\$1,900.00
Net Income:	\$2,361.00	\$1,900.00
MAP of 4:	\$1,363.00	\$1,363.00
MAP of 3:	\$1,130.00	\$1,130.00
Grant Entitlement:	\$0.00	\$0.00
Grant Received:	\$1,130.00	\$1,130.00
Overpayment:	\$1,130.00	\$1,130.00
Total Overpayment:	\$2,260.00	

(Exhibit 1, Attachment 8)

County calculated the CalFresh overissuance as follows:

Payment Month:	07/23	08/23
Household Size:	3	3
G. Earnings:	\$3,992.25	\$3,300.00
20% Ded.:	\$0.00	\$0.00
Total Income:	\$3,992.25	\$3,300.00
Stand. Ded.:	\$193.00	\$193.00
Dep. Care:	\$0.00	\$0.00
Prelim. Inc.:	\$3,799.25	\$3,107.00
Shelter Costs:	\$1,810.00	\$1,810.00
50% Prelim.:	\$1,899.63	\$1,553.50
Shelter Ded.:	\$0.00	\$256.50
Net Income:	\$3,799.00	\$2,851.00
Entitlement:	\$0.00	\$0.00
Received:	\$646.00	\$646.00
Overissuance:	\$646.00	\$646.00
Total Overissuance:	\$1,292.00	

(Exhibit 1, Attachment 9)

County Representative testified that County prorated “V’s” income in the CalFresh budget.

At the continued hearing, County Representative testified that “V” did provide a U Visa (Exhibit 2) to County and should have been eligible to receive CalFresh benefits, and this would make the CalWORKs assistance unit and CalFresh household size four people.

Claimant testified that her assistance unit and household size should be four people because “V” had a U Visa and has a green card. Claimant testified that she does not remember receiving a SAR 2 notice with IRT information. Claimant testified that the SAR 2 notice was mailed to the correct address.

Claimant testified that “V” started working in May 2023. Claimant testified that at first, “V” only worked a few days because there was not a lot of work in the beginning. Claimant testified that she did report “V’s” income to County after he received his first paycheck. Claimant testified that she went into the County office in May 2023 and a worker made a photocopy of the paycheck. Claimant testified that she did the same thing in June 2023 to provide “V’s” paycheck to County. Claimant testified that she received a little paper slip with confirmation that she submitted paychecks. Claimant testified that she does not have those confirmation papers anymore. Claimant testified that she thinks she took “V’s” June 2023 paycheck to County a few days later.

Claimant testified that she could not confirm the gross pay amounts provided in the Work Number Report. Claimant testified that she no longer has those paychecks to confirm the amounts, but thought they were lower. Claimant testified that she had no other earned or unearned income. Claimant testified that no one in the household is considered disabled. Claimant testified that she pays a housing expense of \$1,250.00, which includes utilities. Claimant testified that she did not report dependent care costs and did not receive child support.

Claimant testified that it would be a hardship to repay the CalWORKs overpayment and CalFresh overissuance.

This Administrative Law Judge reviewed the CalSAWs list of images received from Claimant and notes the following (Exhibit 3). It is noted that there are no images that were received in June 2023. It is noted that after May 9, 2023, the next image is dated October 19, 2023.

This Administrative Law Judge reviewed “V’s” Work Number Report and notes the following (Exhibit 1, Attachment 6). It is noted that “V” received the following income:

Pay Date	Gross Pay
06/09/2023	\$2,950.00
06/23/2023	\$1,200.00
07/10/2023	\$2,803.00
07/25/2023	\$2,502.00
08/10/2023	\$3,200.00
08/25/2023	\$1,200.00

It is found by a preponderance of the evidence that “V” received the income for June 2023 through August 2023 as contained in the Work Number Report (Exhibit 1, Attachment 6). This finding is based on County Representative’s testimony that “V”

received this income and based on the Work Number Report. It is also based on Claimant's testimony that she could not remember the paycheck amounts. Claimant also testified that she does not still have the paychecks to confirm the amounts. County's evidence outweighs Claimant's testimony.

It is found by a preponderance of the evidence that Claimant received a SAR 2 notice with IRT information. This finding is based on County Representative's testimony that a SAR 2 notice was mailed to Claimant on May 9, 2023, (Exhibit 1, Attachment 3). Though Claimant testified that she did not receive the SAR 2 notice, Claimant did confirm that it was mailed to the correct address.

It is found by a preponderance of the evidence that Claimant did not submit "V's" June 2023 income to County. This finding is based on County Representative's testimony and the CalSAWs list of images received from Claimant (Exhibit 3) showing that no documents were imaged from May 9, 2023, through October 19, 2023. Though Claimant testified that she did bring "V's" June 9, 2023, paycheck to County within a few days of the pay date and received a receipt that she no longer has, the evidence provided by County outweighs this testimony.

LAW

Certain California Department of Social Services (CDSS) regulations are published in its Manual of Policies and Procedures, abbreviated as "MPP." Certain public assistance laws are located in the Welfare & Institutions Code, abbreviated as "Welf. & Inst. Code." The Code of Federal Regulations is abbreviated as "C.F.R." The symbol "§" represents the word "section." All County Letter is abbreviated as "ACL." All County Information Notice is abbreviated as "ACIN."

All the regulations cited herein are set forth in the Manual of Policies and Procedures (MPP) unless otherwise specified.

Computation of CalWORKs Grant

Effective June 1, 2020, the CalWORKs grant for the Assistance Unit (AU), in general, is determined as follows:

- 1) Determine the correct MAP for the family in the payment month. The MAP shall be based on the number of family members, the status of the family (exempt or non-exempt) and the Region (1 or 2). The county shall use reasonably anticipated monthly income to determine cash aid for the payment period.
- 2) Add any special need payment amounts for the family to the MAP.
- 3) Determine net non-exempt income for the family. Round to the next lower dollar the net non-exempt income from the budget month including in-kind income. Non-exempt income is computed by adding all non-excluded income of the family, and allowing the following deductions:

- A. Allow a deduction for any disability based unearned income.
 - B. If the family has earned income, allow any or all of the deduction (in A.) which has not been deducted. Then allow a deduction for 1/2 of the remaining earned income.
- 4) Subtract the net non-exempt income from the MAP plus special need amount for the family. This is the potential grant.
 - 5) Determine the MAP for the eligible AU. Add any special needs to which AU members are eligible.
 - 6) The actual grant is the lesser of the "potential grant" and the MAP plus special needs.

(Welf. & Inst. Code §§11451.5, 11450.12, 11450(a) and (e), 11452; Man. Pol. & Pro. §§44-315.31 - .38; 44-113.213 - .217; 44-111.231; All County Letter No. 19-76 (Aug. 2, 2019))

As of January 1, 1997, California has characterized its counties as Region 1 and Region 2 counties for CalWORKs purposes.

The following are Region 1 counties: Alameda, Contra Costa, Los Angeles, Marin, Monterey, Napa, Orange, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, and Ventura. All other counties are Region 2 counties.

(Welf. & Inst. Code §11452.018(b); Man. Pol. & Pro. §44-315.322, renumbered from .321 eff. Jan. 1, 2021)

Income is any benefit in cash or in kind which is in fact reasonably anticipated to be available to the individual or is received as a result of current or past labor or services, business activities, interests in real or personal property, or as a contribution from persons, organizations or assistance agencies.

(§44-101, revised July 1, 1998, revised again July 1, 2004)

The Region 1, non-exempt Maximum Aid Payment for an assistance unit of four effective October 1, 2022, is \$1,36300.

(All County Letter 22-60 (July 20, 2022))

The following financial eligibility test applies to both applicant and recipient cases.

An Assistance Unit (AU) is financially eligible for the payment period if the family's combined reasonably anticipated monthly net non-exempt income, after the income and needs of the family are considered is less than the MAP for the AU.

A recipient AU will remain financially eligible during the payment period if the family's combined monthly net non-exempt income does not exceed the family's MAP level for more than one month of the payment period in accordance with §44-316.324.

(§44-207.21)

“Mandatory Inclusion” means the requirement that a parent, sibling or half-sibling be included in a Filing Unit and the requirement that an eligible parent, sibling or half-sibling is included in the AU with the applicant or eligible child. MPP Section 80-301(m)(1). Children who “opt out” of CalWORKs because of the receipt of child support are still mandatorily included in the Assistance Unit (MPP 82-820.321, eff. 1/1/21).

“Filing Unit” is defined as a group of persons required to be on the Statement of Facts. MPP Section 80-301(f)(1).

“Assistance Unit” (AU) is defined as a group of related persons living in the same home who have been determined eligible for CalWORKs and for whom cash aid has been authorized. MPP Section 80-301(a)(8).

Eligible Child

A CalWORKs eligible child must be both deprived and needy, meaning that the child meets the eligibility factors specified in MPP Section 40-107(c). Linking eligibility factors are: blindness or deprivation of parental care or support. Non-linking eligibility factors are: age, property, residence, financial status, and institutional status.

(All County Information Notice No. I-03-20 (Jan. 16, 2020))

CalWORKs Overpayment

An overpayment is any amount of any aid payment an AU received to which it was not eligible. An overpayment may be all or a portion of an aid payment. This includes, but is not limited to, an immediate need payment, a special need payment or aid paid pending a state hearing.

(§44-350.15)

An overpayment shall be assessed when an AU receives more cash aid than entitled to as a result of not reporting income or circumstances timely, or County does not act correctly on a recipient report, or County did not act timely. County shall redetermine the cash aid the recipient should have received based on the required report and correct county action.

(§44-352.12)

An administrative or county error overpayment is an overpayment which was caused by error on the part of County when all information necessary to a correct determination of the grant was in the possession of County.

(§44-350.2(b))

"Applicant or recipient error," shall occur only when the applicant or recipient was notified, either verbally or in writing, of the need to perform the act which constitutes a condition of eligibility and did not perform the act in question after notification, within a reasonable period of time under the circumstances.

(§44-350.151(b)(3))

Overpayments shall not be assessed based on more income than the client actually received. Case circumstances must still be recreated based on all reports that were required to be made, but rather than just looking at mandatory changes that would lower the grant and disregarding any changes that would have increased the grant, any subsequent decreases in income that would have increased the benefit amount (and thus decrease the overpayment amount) shall also be taken into consideration when recreating case circumstances and calculating overpayments. The IRT must still be recalculated based on the income used in each month of the overpayment calculation and the multiplier must still be used when necessary to determine a monthly average for weekly and biweekly income.

(All County Letter No. 15-95 (Dec. 1, 2015))

CalFresh Budgeting (No Aged/Disabled Household Member)

To determine a CalFresh household's net monthly income, when there is no elderly or disabled household member, the county shall use the steps listed below. For prospective (semi-annual) budgeting households, the steps below shall be followed after income is computed for the payment period as specified in MPP §63-509(a)(4):

The county shall use exact dollars and cents. The final figure is rounded up for calculations that end in 50 cents or more, and down otherwise.

- a) Add the gross monthly income earned by all household members minus earned income exclusions.
- b) Subtract the earned income deduction (which is 20% of gross earned income) from the total gross earned income.
- c) Add to net monthly earned income the total monthly unearned income of all household members, minus income exclusions. This includes the actual amount of any public assistance cash aid grant paid.
- d) Subtract the standard deduction.

- e) Subtract any monthly dependent care expenses.
- f) Subtract any child support payments made.
- g) Subtract the homeless shelter deduction, if applicable. (If using this deduction, the next two steps do not apply.)
- h) Total the allowable shelter expenses (see Man. Pol. & Pro. §63-502.36) to determine shelter costs. Subtract from the total shelter costs 50% of the household's monthly income after subtracting all the above deductions. The remaining amount, if any, is the excess shelter cost.
- i) Subtract the excess shelter cost (up to the current maximum).) from the household's monthly income after all other deductions. The household's net monthly income has been determined.

(§§63-502.36; 63-509(a)(4)(A); 63-503.311 revised effective Nov. 1, 2006; Handbook §63-1101.2; 7 C.F.R. §273.10)

At application, the county will determine if the claimant would be eligible over the certification period. A household's eligibility shall be determined for the month of application as of the date of the interview.

(All County Letter No.12-25 (May 17, 2012), p. 88; All County Letter No. 13-17 (Mar. 22, 2013), p. 7 clarifying period of projection is certification period, not SAR period; Man. Pol. & Pro. §63-503.11.)

Income from the month of application will only be used to determine eligibility and benefit amount in the month in which it was received.

(All County Letter No. 12-25 (May 17, 2012), p. 32, 88.)

Effective October 2022 deductions from gross income to provide an adjusted net income for CalFresh purposes include:

- (1) 20% of gross earned income.
- (2) A standard deduction which is \$193.00 for four persons.
- (3) A shelter cost deduction up to a specified maximum (which is \$624.00).
- (4) A dependent care deduction.

(All County Information Notice No. I-60-22 (September 16, 2022))

Shelter costs will be determined at application and recertification and shall remain fixed at the determined amount unless the household reports a change. CalFresh households are not required to report mid-period changes of address; however, if they report the change, the county must act on the change whether it causes an increase or decrease in benefits. The county may verify the change, or only verify if the change is questionable. If the county requests verification of the address change and resulting shelter costs and the household does not respond, the budget will be computed without a shelter cost deduction.

Once the verification is provided (or if the change is verified at the time of the report or is not questionable), the benefit will be increased effective no later than the first allotment issued 10 days after the date the change was verified.

(All County Letter No. 12-25E (Dec. 16, 2013), p. 8; 7 C.F.R. §273.2; 7 C.F.R. §273.9)

Whether or not the household incurs utility expenses and qualifies for the Standard Utility Allowance (SUA), Limited Utility Allowance (LUA), or Telephone Utility Allowance (TUA) will be determined at application and at recertification and shall remain constant during the certification period, unless the household reports a change in circumstances. If the household moves to a new address or reports a change (i.e., paying for utilities or acquiring a phone) the same process is used as for the shelter costs.

(All County Letter No. 12-25 (May 17, 2012), p. 53)

Effective September 1, 2019, counties are not to request verification of shelter costs, unless questionable.

Effective October 1, 2022, the SUA is \$560.00.

(All County Information Notice No. I-60-22 (September 16, 2022))

MCE Maximum Gross Income

For Modified Categorically Eligible households, counties shall determine eligibility for CalFresh benefits pursuant to the maximum gross income standards as promulgated and updated by the United States Department of Agriculture. The Modified Categorically Eligible gross income standard for a Modified Categorically Eligible household of four persons as set out in All-County Information Notice No. 60-22, effective October 1, 2022, is \$4,626.00. A Modified Categorically Eligible household with income in excess of the standard is ineligible to receive CalFresh.

(ACL 13-32 (April 24, 2013); ACL 14-56 (Aug. 22, 2014); ACL 14-56E (April 10, 2015); ACL 15-42 (April 15, 2015)); (All County Information Notice No. I-60-22 (September 16, 2022))

Non-Modified Categorical Eligibility (MCE) Households - Gross Income Limit

Households with an aged/disabled member have no gross income limit.

For other households, if not MCE, the counties shall determine eligibility for CalFresh benefits pursuant to the maximum gross income standards as promulgated and updated by the United States Department of Agriculture. The gross income standard for a household of four persons as set forth in Handbook §63-1101.31 and set out in All-County Information Notice No. 60-22, effective October 1, 2022, is \$3,007.00. A household with income in excess of the standard is ineligible to receive CalFresh.

(§63-409.111)

Except for categorically eligible households, CalFresh eligibility is based on maximum net income standards set forth in Handbook §63-1101. Pursuant to Handbook §63-1101.32 and set out in All-County Information Notice No. 60-22, effective October 1, 2022, the maximum net income level for a household of four persons is \$2,313.00. A household with income in excess of the standard is ineligible to receive FS.

(§63-409.112); (All County Information Notice No. I-60-22 (September 16, 2022))

Reasonably Anticipated Income

For purposes of applying the gross income test in determining eligibility, the county is required to determine the average monthly income that can be reasonably anticipated; determining the average monthly income requires using the weekly conversion factor of 4.33 and the bi-weekly conversion factor of 2.167 for stable income.

(All County Letter No. 12-25 (May 17, 2012), p. 27; Man. Pol. & Pro. §63-509(a)(5); 7 C.F.R. §273.10(c)(2)(i))

The prospective budgeting system uses anticipated income/prospective budgeting to determine a recipient's benefits. Prospective budgeting requires the county to use income that the recipient reasonably anticipates it will receive during the quarter.

(All County Letter No. 12-25 (May 17, 2012) [Semi-Annual]; All-County Letter No. 03-18 (Apr. 29, 2003) [Quarterly]; 7 C.F.R. §273.10))

"Prospective eligibility" means the determination of a household's eligibility for an issuance month based on an estimate of a household's income, circumstances and composition which will exist in that issuance month.

(§63-102(p)(11))

Under SAR, recipients will no longer be required to report an exact amount of anticipated monthly income for each month of the SAR period. Instead, recipients will be

required to provide information for the Data Month and any anticipated changes in the six months following the Submit Month. The income received in the Data Month will be considered reasonably anticipated and will be used in the budget calculation unless the recipient reports that they anticipate a change in the upcoming SAR Period.

(All County Letter No. 12-25 (May 17, 2012))

Under Semi-Annual Reporting, increases in benefits based on voluntary reports shall be based on when the change was reported, not when the change actually occurred. The effective date of the increase in benefits is as follows:

- Increases due to decreased income are effective the first of the month in which the change occurs or is reported, whichever is later.
- Increases due to the addition of new household members are effective the first of the month following the report of the change.

The recipient must provide verification of the change within the 10 day period listed on the request for verification. If verification is not received within 10 days, the county shall send a “no-change notice” to the household which states that no action to increase benefits was taken because verification was not received. If verification is provided after 10 days, the date the verification is provided shall be considered the date of the voluntary report.

Example 1:

January through June semi-annual period. Mom reports a decrease in income on March 25. The county mails a request for verification on March 28, requesting verification by April 7. Mom provides timely verification of the decreased income on April 3. The CWD shall recalculate the grant amount for March through June and issue a supplemental payment for March by April 13.

(All County Letter No. 12-25 (May 17, 2012), p. 48-49)

Income Reporting Threshold

The county's failure to notify the client of his or her Income Reporting Threshold (IRT) does not change the fact when a client's income is over the IRT amount, aid payments must be recalculated. Even when the client was not notified of the IRT, any overpayment or overissuance resulting from a client failing to report income over the IRT results in a county administrative error caused overpayment or overissuance.

(All County Letter No. 14-77 (Oct. 15, 2014), answer to question 4.)

The IRT level of which the recipient was last notified will be used for reporting purposes until the county has had an opportunity to inform the recipient of any applicable IRT change.

(All County Letter No. 16-94 (Nov. 16, 2016) and through IRT chart distribution letters since All County Letter No. 04-39 (Nov. 2, 2004))

If a PACF household fails to report income over the CalWORKs IRT, an overpayment is established. If the unreported income is under the CalFresh IRT, an overissuance is not calculated for the failure to report as this is not a mandatory CalFresh report.

(All County Letter No. 15-42 (April 15, 2015), page 8)

Effective October 1, 2022, the CalFresh Income Reporting Threshold for a household size of four is \$3,007.00.

(All County Information Notice No. I-60-22 (September 16, 2022))

Mid Period Reporting

CalFresh recipients must report during the period between eligibility reports:

- For the CalFresh program, all recipients will be required to report any change in income that is likely to render them ineligible for CalFresh benefits (130 percent of the FPL), and to report address changes, midperiod.

(All County Letter No. 12-25 (May 17, 2021) at page 36); All County Letter No. 21-101 (October 15, 2021) at page 3)

The county must act on information that would increase the household's benefits and must not act on information that would decrease the household's benefits during the six months of the semi-annual period, except under the following circumstances.

- The household voluntarily requested that its case be closed.
- The state agency has information considered "verified upon receipt" (VUR).
- A household member has been identified as a fleeing felon or parole violator.
- There has been a change in the household's Public Assistance (PA) grant (CalWORKs, Tribal TANF, SSI/SSP, and General Assistance/General Relief (GA/GR)).
- The state agency has verified information that a member of a household has received substantial lottery or gambling winnings.
- The household makes a mandatory report, regardless of the impact on benefits.

- Gross monthly income received over the Income Reporting Threshold (IRT) if certified at income less than 130% of the Federal Poverty level.
- A reduction in work hours below 20 hours per week, averaged monthly, for Able Bodied Adults Without Dependents (ABAWDs) subject to the ABAWD time limit.
- Certain mass changes mid-period, known as “county initiated mid-period actions.” These are defined as mass changes or changes that the household does not need to report, such as a Cost-of-Living Adjustment (COLA) or a change in eligibility criteria due to legislative or regulatory action.

Counties also must act mid-period if it has information:

- That the household is not cooperating with Quality Control review.
- That the household is receiving SNAP benefits in another state.
- Of a Verified Nationwide Prisoner Match (NPM) or Deceased Persons Match (DPM)

(All County Letter No. 21-101 (Oct. 15, 2021))

The prospective budgeting system uses anticipated income/prospective budgeting to determine a recipient’s benefits. Prospective budgeting requires the county to use income that the recipient reasonably anticipates it will receive during the quarter.

(All County Letter No. 12-25 (May 17, 2012) [Semi-Annual]; All-County Letter No. 03-18 (Apr. 29, 2003) [Quarterly]; 7 C.F.R. §273.10))

Under SAR, recipients will no longer be required to report an exact amount of anticipated monthly income for each month of the SAR period. Instead, recipients will be required to provide information for the Data Month and any anticipated changes in the six months following the Submit Month. The income received in the Data Month will be considered reasonably anticipated and will be used in the budget calculation unless the recipient reports that they anticipate a change in the upcoming SAR Period.

(All County Letter No. 12-25 (May 17, 2012))

Income and household information from the Data Month and anticipated changes in income and expenses must be considered when determining eligibility and benefit levels for a certification period. Documentation is required in the case folder which explains how income was projected in determining benefit calculations. Case narrative entries must include, but are not limited to, income the recipient states is expected in future months, whether anticipated income will be different than income reported for the Data Month, documentation for not accepting the recipient's estimate if information is

questionable, and other information used to determine what income the county will use to calculate benefits (e.g., employer's statements, case history, etc.)

(All County Letter No. 12-25 (May 17, 2012), p. 25; Man. Pol. & Pro. §63-509 (a)(1))

Recipients have mandatory reporting requirements during the payment period, also known as mid-payment period changes. Semi-Annual reporting Households must report income in excess of the Income Reporting Threshold. Non-Public Assistance households with individuals subject to the "ABAWD" work rules must also report reduction in work hours.

(§63-508.13, as modified by All County Letter No. 12-25 (May 12, 2012))

CalFresh Overissuance

The general rule is that the county is required to establish a claim against any household that has received more benefits than it was entitled to receive. All adult household members are jointly and individually liable for any overissuance to the household.

(§63-801.1)

An overissuance is the amount by which the benefits issued to a household exceed the amount the household was eligible to receive.

(§63-102(o)(1); 7 C.F.R. §273.18)

When determining the value of a CalFresh Overissuance or Underissuance, the county must use both the CalFresh and CalWORKs amount the household should have received had the household reported the required information and the county taken timely action. When recomputing benefits results in an overpayment/overissuance, the county shall recreate case circumstances, including the determination of what income was reasonably anticipated at the time (not based on actual income determined after the fact).

(All County Letter No. 12-25 (May 17, 2012), p. 79; All County Information Notice No. I-16-05E (August 13, 2020))

If a recipient fails to report income anytime they are required to report, or the county fails to act correctly when a recipient reports income, the county shall determine benefits the recipient would have received based on an accurate report of income and correct county action on that report. The overpayment/overissuance begins on the first date the change would have been made based on an accurate recipient report.

(All County Letter No. 12-25 (May 17, 2012), p.78)

Overissuances shall not be assessed based on more income than the client actually received. Case circumstances must still be recreated based on all reports that were required to be made, but rather than just looking at mandatory changes that would lower the grant and disregarding any changes that would have increased the grant, any subsequent decreases in income that would have increased the benefit amount (and thus decrease the overissuance amount) shall also be taken into consideration when recreating case circumstances and calculating overissuances.

(All County Letter No. 15-95 (Dec. 1, 2015))

In CalFresh, when assessing whether an overissuance should be established based on mid-period changes that are required to be reported, the County Welfare Department must determine if the recipient reported the change in a timely manner (i.e., within 10 days). If a recipient reports a mandatory mid-period change timely, completely, and accurately, the County Welfare Department shall not establish an overissuance when the County Welfare Department is unable to issue the correct allotment due to the 10-day notice requirement. Overissuances will not be assessed based on a timely, accurate and complete report where the 10-day notice alone delayed issuance of the correct allotment.

Overissuances will be assessed when late reporting alone or together with the 10-day notice requirement delayed issuance of the correct allotment.

(All County Letter No. 12-25 (May 17, 2012), pp. 76-77)

Additionally, in inadvertent household and administrative error claims, no 20% earned income deduction shall be allowed for that portion of the earned income which the household failed to report.

(§63-801.312(c) effective Nov. 12, 1996; 7 C.F.R. §273.18(c)(1)(ii)(B))

For any month in which an Emergency Allotment is issued, an overissuance claim must not be established unless the household is found to have been completely ineligible for CalFresh or there is evidence of benefit trafficking. Any discrepancy between the normal CalFresh allotment and the Emergency Allotment caused by an Administrative Error or Inadvertent Household Error does not change the fact that the household was eligible to receive the maximum allowable benefit allotment based on household size.

If a household's normal benefit allotment is calculated incorrectly, counties must correct the household's normal benefit allotment moving forward. When correcting a household's normal benefit allotment, counties are not required to reduce the Emergency Allotment to offset an error in the original benefit calculation.

(All County Information Notice No. I-87-20 (Nov. 24, 2020))

The county shall initiate collection action by sending a Notice of Action (NOA) to the household, or to the sponsor of an alien household, which requests repayment, and

which must include certain other information. The household or the sponsor shall be informed of the length of time the household has to decide which repayment method it will choose, and that the household must inform the county of its choice. The NOA shall also state that the household's allotment will be reduced if the household fails to agree to make restitution. The county shall reduce the household's benefits without further Notice No. If it fails to respond to the notice.

(§63-801.441, effective Sept. 1, 1997; 7 C.F.R. §273.18(e)(i) and (iv) and (g)(1).); 63-801.442)

The CalFresh food benefit program is a federal program governed by federal law. Under federal law, substantive equitable estoppel cannot be applied if doing so would result in the payment of federal funds not authorized by Congress. (Office of Personnel Management (OPM) v. Richmond (1990) 496 U.S. 414.) The federal government is responsible for funding all federal CalFresh benefits paid and shares the cost of administration with participating states. (7 U.S.C. §§2013(a), 2025(a).) As a matter of federal law, state concepts of equitable estoppel will not apply to bar recoupment of federally funded CalFresh benefits.

There are three methods of collecting CalFresh overissuance claims. The first two methods, lump-sum repayment and installment repayment, are optional with the household, regardless of the type of overissuance claim. Under either method, repayment can be made through the EBT account.

The third method of collection is by reduction in the current CalFresh allotment of a currently eligible household. If the household does not repay the overissuance claim by either the lump-sum or installment method, then the county's right to implement the coupon reduction method is as follows:

- (a) Intentional Program Violation Claims: The amount of the reduction shall be 20% of the household's monthly allotment or \$20, whichever is the greater amount.
- (b) Inadvertent Household Error Claims: The amount of the reduction shall be 10% of the household's monthly allotment or \$10, whichever is the greater amount.
- (c) Administrative Error Claims: Effective no later than January 1, 2014, the amount of the reduction shall be 5% of the household's monthly allotment or \$10, whichever is the greater amount.

(§63-801.7, as modified effective Aug. 10, 2001, All County Letter No. 13-79 (Sept. 24, 2013); 7 C.F.R. §273.18(g)(1); MPP §16-750 [EBT Account repayment])

Recreating Case Circumstances

Per 7 Code of Federal Regulations (CFR) 273.18(c)(1) and Manual of Policies and Procedures (MPP) 63-801.312, the CWD must calculate the value of a CalFresh OI by determining the difference between the correct amount of benefits the household should

have received and the amount of benefits the household actually received. This process is often referred to as recreating case circumstances. When recreating case circumstances, the CWD must determine the correct amount of benefits the household should have received had the CWD not made a mistake (Administrative Error), had the household not made an inadvertent error (Inadvertent Household Error), or had the household not intentionally broken a program rule (Intentional Program Violation).

Under SAR, when recreating case circumstances to calculate the value of a CalFresh OI, the CWD must not consider income changes, increases or decreases, that the household was not required to report or did not voluntarily report during the certification period, unless the change would result in an increase in benefits.

(All County Letter 24-33 (March 29, 2024))

Applying the Earned Income Deduction When Calculating the Value of an Overissuance

Per 7 CFR 273.18(c)(1)(ii)(B), when calculating the value of an AE OI in which earned income is the basis for the OI, the CWD must apply the earned income deduction in their calculations. However, when determining the value of an IHE or IPV OI in which earned income is the basis for the OI, the CWD must not apply the earned income deduction.

(All County Letter 24-33 (March 29, 2024))

CONCLUSION

CalWORKs Overpayment

Claimant is disputing Contra Costa County's (County) action establishing a customer caused CalWORKs overpayment in the amount of \$2,260.00 occurring during the period of July 2023 and August 2023 (Claim# 815346991).

An overpayment shall be assessed when an assistance unit receives more cash aid than entitled to as a result of not reporting income or circumstances timely, or County does not act correctly on a recipient report, or County did not act timely. County shall redetermine the cash aid the recipient should have received based on the required report and correct county action.

Effective October 2022, the CalWORKs Income Reporting Threshold (IRT) for an assistance unit of four persons is \$3,007.00.

As discussed in the FACTS section, County Representative testified that "V" should have been included in the assistance unit size.

Here, it is undisputed that "V" started working in May 2023. As found in the FACTS section, "V" received a paycheck in the amount of \$2,950.00. This paycheck would not have exceeded Claimant's IRT. "V" received a paycheck on June 23, 2023, in the amount of \$1,200.00. This would have exceeded IRT and Claimant would have had ten

days to report the income to County, or by July 3, 2023. County would then have recalculated Claimant's CalFresh eligibility effective August 1, 2023.

In this case, it was found in the FACTS section that Claimant did not timely report income to County. This means that pursuant to ACL 16-120, Claimant is not given the benefit of recreating case circumstances with the 10 day deadline to report income over IRT. The overpayment will start July 2023.

County would have used Claimant's June 2023 to calculate ongoing eligibility.

"V's" June 2023 income is calculated as follows:

$$\$2,950.00 + \$1,200.00 = \$4,150.00$$

County did not average Claimant's income's when calculating the overpayment and it will not be done here under principles of due process.

The overpayment is calculated as follows:

Assistance Unit:	4	4
Payment Month:	07/23	08/23
Gross Earned Inc.:	\$4,150.00	\$4,150.00
Income Deduction:	\$600.00	\$600.00
50% Deduction:	\$1,775.00	\$1,775.00
Net Earned Inc.:	\$1,775.00	\$1,775.00
Net Income:	\$1,775.00	\$1,775.00
MAP:	\$1,363.00	\$1,363.00
Grant Entitlement:	\$0.00	\$0.00
Grant Received:	\$1,130.00	\$1,130.00
Overpayment:	\$1,130.00	\$1,130.00
Total Overpayment:		\$2,626.00

It is concluded that County correctly established a customer caused CalWORKs overpayment in the amount of \$2,260.00 occurring during the period of July 2023 and August 2023 (Claim# 815346991).

CalFresh Overissuance

Claimant is disputing County's action establishing an inadvertent household error CalFresh overissuance in the amount of \$1,292.00 occurring during the period of July 2023 and August 2023 (Claim# 815347003).

CalFresh recipients must make mid-period reports to County when their income is likely to render them ineligible for CalFresh benefits. Effective October 2022, the CalFresh Income Reporting Threshold (IRT) for a household of four persons is \$3,007.00.

When recreating case circumstances, County must determine the correct amount of benefits the household should have received had County not made a mistake (Administrative Error), had the household not made an inadvertent error (Inadvertent Household Error), or had the household not intentionally broken a program rule (Intentional Program Violation).

As discussed in the FACTS section, County Representative testified that “V” should have been included in the household size.

Here, it is undisputed that “V” started working in May 2023. As found in the FACTS section, “V” received a paycheck in the amount of \$2,950.00. This paycheck would not have exceeded Claimant’s IRT. “V” received a paycheck on June 23, 2023, in the amount of \$1,200.00. This would have exceeded IRT and Claimant would have had ten days to report the income to County, or by July 3, 2023. County would then have recalculated Claimant’s CalFresh eligibility effective August 1, 2023. This is a difference from CalWORKs regulations and Claimant is given the benefit of recreating case circumstances with the ten days to report income. County would have used Claimant’s June 2023 to calculate ongoing eligibility.

“V’s” June 2023 income is calculated as follows:

$$\$2,950.00 + \$1,200.00 = \$4,150.00$$

County did not average Claimant’s income’s when calculating the overissuance and it will not be done here under principles of due process.

According to All-County Information Notice No. 60-22, effective October 1, 2022, the Modified Categorically Eligible (MCE) household limit is \$4,626.00 for a household size of four.

Here, Claimant’s household income of \$4,150.00 is less than \$4,626.00. Claimant is MCE.

Claimant’s August 2023 CalFresh budget is calculated as follows:

Payment Month:	08/23
Household Size:	4
G. Earnings:	\$4,150.00
20% Ded.:	\$0.00
Total Income:	\$4,150.00
Stand. Ded.:	\$193.00

Prelim. Inc.:	\$3,957.00
Shelter Costs:	\$1,810.00
50% Prelim.:	\$1,978.50
Shelter Ded.:	\$0.00
Net Income:	\$3,957.00
Entitlement:	\$0.00
Received:	\$646.00
Overissuance:	\$646.00

The earned income deduction was not used here because it was found in the FACTS section that Claimant did not timely report income to County.

County would have then discontinued CalFresh benefits effective August 1, 2023.

It is concluded that County incorrectly established an inadvertent household error CalFresh overissuance in the amount of \$1,292.00 occurring during the period of July 2023 and August 2023 (Claim# 815347003). The correct overissuance is \$646.00 for the month of August 2023 only.

ORDER

The claim is granted in part and denied in part.

Contra Costa County shall modify its action establishing an inadvertent household error CalFresh overissuance in the amount of \$1,292.00 occurring during the period of July 2023 and August 2023 (Claim# 815347003) to an inadvertent household error CalFresh overissuance in the amount of \$646.00 occurring during August 2023.

In all other respects, the claim is denied.