

COUNTY ALLEGATION OF INTENTIONAL PROGRAM VIOLATION /STATEMENT OF POSITION
(Request for an Administrative Disqualification Hearing)

County: _____			
PROPOSED PENALTY PERIOD			
CalWORKs		CalFresh	
<input type="checkbox"/> 6 Months	<input type="checkbox"/> 12 Months	<input type="checkbox"/> Two Years	
<input type="checkbox"/> 12 Months	<input type="checkbox"/> 24 Months		
<input type="checkbox"/> Four Years	<input type="checkbox"/> Permanent	<input type="checkbox"/> Ten Years	<input type="checkbox"/> Permanent
<input type="checkbox"/> Active	<input type="checkbox"/> Closed	<input type="checkbox"/> Active	<input type="checkbox"/> Closed

Person	Street Address	
Case No.	City State Zip Code	
SSN	Phone	Language

JURISDICTION:

A. Status of Prosecution

- The case will not be referred to the DA for prosecution because of an agreement with the prosecutor such as monetary limit thresholds for resulting overpayments of overissuances;
- The case was referred to the DA but was rejected for prosecution;
- The case was referred to the DA or the court but the factual issues in that case are different in this case; or
- The case has not yet been referred to the DA for prosecution.

B. Address Determination

The county at the hearing will affirm that the address used by the State at the time the State sent notice of this hearing was appropriate (e.g., as reflected in current county records, last known address with no reports of changed addresses, etc.)

IPV ALLEGATION:

- A. Describe the action(s) the person took and/or the occurrence(s) he/she failed to report which resulted in an Intentional Program Violation (IPV) as generally defined in regulation MPP Sections 20-300.1 and 20-351.i(1).
- B. Describe why you believe the person's actions and/or failure to report the occurrence was intentional (on purpose).
- C. In CalWORKs cases, also explain why the county believes the respondent committed the IPV for the purpose of establishing or maintaining the family's eligibility for CalWORKs or for increasing or preventing a reduction in the amount of the grant.
- D. Describe how and when the person was made aware of his/her responsibility to report the information which caused the IPV.
- E. Describe the exact period of time in which the action and/or occurrence took place and the amounts and period of any resulting CalWORKs overpayment and/or CalFresh overissuance.

APPLICABLE AUTHORITY:

Cite applicable regulations which make this an IPV and those regulations establishing the appropriate penalty period for the case.

All sections cited refer to the Manual of Policies and Procedures (MPP) unless otherwise noted.

Section 22-305.42 defines an Intentional Program Violation (IPV) in the CalWORKs program as an action by an individual for the purpose of establishing or maintaining the family's eligibility for CalWORKs or for increasing or preventing a reduction in the amount of the grant, which is intentionally:

- .421 A false or misleading statement or misrepresented, concealed, or withheld facts; or*
- .422 Any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.*

Neither Chapter 20-350 nor 22-300 prescribes a burden of proof for CalWORKs IPV cases decided in the administrative hearing. Absent a specified burden of proof, the California Department of Social Services (CDSS) will apply the preponderance of the evidence standard.

Section 20-300.1 defines a CalFresh IPV as having intentionally:

- .11 Made false or misleading statement, or misrepresented, concealed, or withheld facts, or
Committed any act which constitutes a violation of the Food Stamp Act, the CalFresh program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt or possession of CalFresh benefits.*

Section 22-220.3 provides that any determination of a CalFresh IPV which is made in such a decision shall be based upon clear and convincing evidence.

Section 20-353.11 (CalWORKs) provides that individuals found to have committed a CalWORKs IPV shall be ineligible to receive CalWORKs benefits as follows:

- .111 Six months for the first violation*
- .112 Twelve months for the second violation*
- .113 Permanently for the third violation*

Section 20-353.12 provides that individuals found to have committed an IPV based on submitting more than one application for the same period of time and for the purpose of receiving more than one grant of aid;

or

For submitting documentation for nonexistent children, or submitting false documentation for the purpose of showing ineligible children to be eligible for aid, shall be ineligible to receive CalWORKs benefits as follows:

- 121. Two years for the first violation*
- 122. Four years for the second violation*
- 123. Permanently for the third violation.*

Section 20-353.5 (CalWORKs) provides that if the individual is not eligible for the CalWORKs at the time the disqualification period is to begin, the period shall be postponed until the person applies for and is determined eligible for benefits.

Individuals found to have committed an IPV either through an administrative disqualification hearing or by a court of appropriate jurisdiction shall be ineligible to participate in the CalFresh Program as specified in 20-300.3 (63-805.1) Section 20-300.31 provides that individuals found to have committed an IPV, either through an administrative disqualification hearing or by a court of appropriate jurisdiction, shall be ineligible to participate in the CalFresh Program as follows:

- .311 Except as specified in Sections 20-300.312, .313, .314, and .315, twelve months for the first violation, twenty-four months for the second violation, and permanently for the third violation.*
- .312 Twenty-four months for the first violation and permanently for the second violation of trading CalFresh benefits for a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 USC 802).*
- .313 Permanently for the first violation for trading CalFresh benefits for firearms, ammunition, or explosives.*
- .314 For a 10-year period for falsifying the identity or place of residence of the individual in order to receive multiple CalFresh benefits;*
- .315 Permanently for trafficking CalFresh benefits of \$500 or more. For purposes of this subsection, trafficking is defined in 7 USC 2024(b) and (c).*

Section 22-301.2 and .4 in the CalWORKs IPV program and Section 20-300.22 and .23 in the CalFresh IPV program set out the following regulatory provision:

Those cases in which the prosecuting authority has determined (a) that facts do not warrant prosecution, or (b) those cases previously referred for prosecution and declined, shall be returned to the County Welfare Department (CWD) and the CWD shall initiate referral actions for an ADH through the California Department of Social Services (CDSS) in accordance with CDSS MPP, Division 22.

The CWD shall not initiate an ADH against an accused individual whose case is currently

being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of appropriate jurisdiction, if the factual issues of the case arise out of the same or related circumstances.

Section 22-340.7 (CalWORKs) and 20-300.24 and 63-801.43 (CalFresh), provide that if the decision of the ALJ finds that the respondent committed an IPV, the County Welfare Department shall provide a written notice to the respondent prior to disqualification. The CalWORKs regulation in subsection .71 provides that the notice shall inform the respondent of the following:

- .711 The decision and the reason for the decision;*
- .712 The period of disqualification (which shall begin no later than the first day of the second month which follows the date of notice); and*
- .713 The amount of payment the assistant unit will receive during the disqualification period.*

The CalFresh sections provide that the notice shall advise the remaining household members of the allotment they will receive during the disqualification period. The county shall send the individual a written demand letter which informs the individual of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting due to previous underissuances which reduced the claim, how the household may pay the claim, and the individual's right to request a State Hearing if the individual disagrees with the amount of the claim (unless the household has already had a State Hearing on the amount of the claim). The individual shall be advised of the right to request renegotiation of any agreed- to repayment schedule should the household's economic circumstances change. The household shall be advised that the household's current CalFresh allotment will be reduced if the household fails to make restitution.

