

|->

Title 22@ Social Security

|->

Division 2@ Department of Social Services-Department of Health Services

|->

Part 2@ Health and Welfare Agency-Department of Health Services Regulations

|->

Subdivision 6@ Preventive Medical Services

|->

Chapter 6@ California Special Supplemental Food Program for Women, Infants and Children

|->

Article 7@ Food Delivery System

40747 Vendors Claims and Vendor Repayment to the State

Section 40747@ Vendors Claims and Vendor Repayment to the State

(a)

A vendor that has been determined by the Department to be in violation of this Chapter identified during monitoring, as specified in Section 40743, shall be subject to a vendor claim and shall reimburse the Program for any Program funds so received. The Program shall notify the vendor in writing of the vendor claim. A vendor shall reimburse said monies prior to being reauthorized to participate in the Program. However, a vendor may be reauthorized to participate in the Program prior to full reimbursement of said monies if the Department determines that the vendor is meeting its reimbursement obligations in amounts and according to the repayment schedule established by the Department.

(b)

A vendor claim shall be either the full amount of an audit finding determined during an audit of a vendor or the amount of the full purchase price of any food instrument transacted in violation of this Chapter as identified during a compliance buy or on-site inspection.

(c)

Assessment of a vendor claim shall be in addition to sanctions imposed for Program violations as specified in Sections 40740 and 40741. Dispute of a vendor claim shall not be subject to appeal or administrative review as described in Sections 40751 or 40752 of this Article. However, vendors shall have the opportunity to dispute a

vendor claim as specified in subsection (d) of this Section.

(d)

The vendor shall be provided an opportunity to dispute a vendor claim by submitting to the Program a written explanation of the dispute, that states the issues in dispute, evidence to support the vendor's position, and the desired resolution. The vendor shall submit the written explanation of the dispute within 30 calendar days from the date of the vendor's receipt of the vendor claim. The Program address for submitting disputes regarding a vendor claim will be provided in the Program's written notice to the vendor of the vendor claim.

(e)

Any written explanation disputing the vendor claim received by the Program after the time period specified in subsection (d) of this Section shall be denied and the vendor claim deemed by the Program as due and payable from the vendor.

(f)

The Department's Director or designee shall review and issue a written decision as to the resolution of the dispute of a vendor claim. In the following instances, the issuance of the decision shall be deferred until the amount of the vendor claim is determined by any final administrative decision, as specified in this Chapter, or court ruling: (1) If an audit finding results in a disqualification of a vendor based on a violation of Section 40740(e)(2); or (2) For a dispute of a vendor claim based on payment of a food instrument transacted in violation of Program regulations as identified during a compliance buy or on-site inspection.

(1)

If an audit finding results in a disqualification of a vendor based on a violation of Section 40740(e)(2); or

(2)

For a dispute of a vendor claim based on payment of a food instrument transacted in violation of Program regulations as identified during a compliance buy or on-site inspection.

(g)

The decision of the Department's Director or designee shall be final.

(h)

Except as specified in subsection (i) of this Section, if the vendor has been assessed a vendor claim, the vendor shall pay the vendor claim in full within 30 calendar days: (1) of the vendor's receipt of the notification of the vendor claim; or (2) of the Director or Director's designee's issuance of the final decision of a dispute of a vendor claim, if the vendor has filed a dispute of a vendor claim within the time period specified in subsection (d) of this Section.

(1)

of the vendor's receipt of the notification of the vendor claim; or

(2)

of the Director or Director's designee's issuance of the final decision of a dispute of a vendor claim, if the vendor has filed a dispute of a vendor claim within the time period specified in subsection (d) of this Section.

(i)

A vendor may request to pay one half of the total vendor claim from an audit finding in installments. The Program must receive the vendor's written request for an installment plan and an initial payment of no less than 50 percent of the total amount of the vendor claim within the same time limits required for full payment specified in subsection (h) of this Section. The vendor shall pay the unpaid balance of the vendor claim as stated in an installment plan agreement entered into by the Department and the vendor. The installment plan agreement shall include: (1) An

interest payment on the unpaid balance calculated at the rate allowed by the Pooled Money Investment Fund divided into 12 consecutive monthly payments; and (2) The unpaid balance of the vendor claim, after the initial payment has been deducted from the total vendor claim amount, divided into 12 consecutive monthly payments; and (3) The payment schedule, including the principle and interest amount, and the payment due dates. The first monthly payment shall be due no later than one month following the execution of the installment plan agreement.

(1)

An interest payment on the unpaid balance calculated at the rate allowed by the Pooled Money Investment Fund divided into 12 consecutive monthly payments; and

(2)

The unpaid balance of the vendor claim, after the initial payment has been deducted from the total vendor claim amount, divided into 12 consecutive monthly payments; and

(3)

The payment schedule, including the principle and interest amount, and the payment due dates. The first monthly payment shall be due no later than one month following the execution of the installment plan agreement.

(j)

If the vendor fails to meet any of the terms of the installment plan agreement, any unpaid balance of the vendor claim shall be paid in full within 30 calendar days of the date of vendor's receipt of the written notification from the Program to the vendor of the vendor's failure to meet the terms of the installment plan agreement.

(k)

The vendor shall be subject to any means afforded by law including an abstract of judgment or lien to recover amounts due and owing and unpaid by the vendor.