

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814
(916) 445-0813



February 22, 1983

ALL-COUNTY INFORMATION NOTICE I- 26-83

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: FARIAS v. WOODS, ORDER OF CALIFORNIA SUPERIOR COURT

On April 27, 1982, ACL 82-39 informed you of the required retention of open or closed AFDC-FG/U/FC records of children placed by court order with relatives not liable for their support due to the possibility of court ordered retroactive payments.

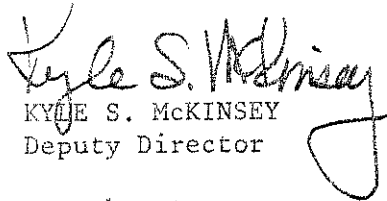
On December 28, 1982, the Superior Court of the State of California issued an order in the case of Farias v. Woods. The order states that those federally eligible children who were denied AFDC-FC solely on the basis that they were residing with relatives are entitled to retroactive benefits from February 1, 1978 through the date on which they were transferred to AFDC-FC or became ineligible. The date of transfer may be later than January 8, 1980, because the Miller v. Youakim regulations were implemented on a flow basis. The class action was intended to reimburse the foster parent for services rendered during the retroactive time periods. Regulations implementing the court order will be filed on an emergency basis if approved by the Office of Administrative Law.

Briefly, some of the provisions of the court order are:

1. Beginning date of retroactive benefits for the class is February 1, 1978.
2. All active AFDC(FG/U/FC) cases will be reviewed for eligibility during the redetermination process. In addition, all applications and discontinuances will be reviewed to identify potentially eligible recipients. However, potential recipients may walk in and request a determination of eligibility.
3. DSS will provide the plaintiff's attorney's with information received from counties regarding the number of applications, number of claims granted, number of claims paid, amount of money paid, current recipient status of child and whether the application was the result of the redetermination process or a walk-in request.
4. The application period will be limited to fifteen months from the effective date of the regulations. Case reviews at application, re-determination and discontinuance will be required during the fifteen month period.

5. Retroactive payments will be paid to the former caretaker relative. However, if at the end of the fifteen month application period, the former caretaker cannot be located with a diligent search, the payment will be made to the adult child, or, if the child is under 18 years old, a trust fund will be established for the child.
6. Determination and notification of eligibility must be completed within 60 days of application and, if eligible, payment must be made within 30 days of approval.
7. DSS is responsible for informing potentially eligible persons of the availability of retroactive payments via press releases and the issuance of posters and handbills.

A copy of the Superior Court order is attached. Please contact the Foster Care Program Bureau at (916) 445-0813 if you have any questions.


KYLE S. MCKINSEY
Deputy Director

Attachment

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

| | | |
|--------------------------|---|---------------------|
| JERRY FARIAS, et al., |) | No. 710-754 |
| |) | |
| Petitioners, |) | PEREMPTORY WRITS OF |
| |) | MANDATE |
| vs. |) | |
| |) | |
| MARION J. WOODS, et al., |) | |
| |) | |
| Respondents. |) | |
| |) | |

TO MARIO OBLEDO, AS SECRETARY OF THE HEALTH AND WELFARE AGENCY OF THE STATE OF CALIFORNIA, MARION J. WOODS, AS DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES OF THE STATE OF CALIFORNIA, RESPONDENTS, AND TO THEIR SUCCESSORS IN OFFICE, AGENTS, EMPLOYEES, AND REPRESENTATIVES, AND ALL OTHER PERSONS ACTING BY, THROUGH OR UNDER THEM OR IN CONCERT WITH THEM OR SUBJECT TO THEIR DIRECTION OR CONTROL INCLUDING THEIR STATUTORY AGENTS, THE BOARD OF SUPERVISORS OF EACH CALIFORNIA COUNTY AND THE DIRECTORS OF EACH COUNTY WELFARE DEPARTMENT/DEPARTMENT OF SOCIAL SERVICES:

Judgment having been entered in the above-captioned action, ordering the Clerk of this Court to issue Peremptory Writs of Mandate,

YOU ARE HEREBY COMMANDED:

1. Immediately upon receipt of this writ issued on behalf of petitioner Mary and Richard Cabral pursuant to Section 1094.5 of

1 the Code of Civil Procedure to set aside your hearing decisions
2 adopted August 25, 1975, and July 8, 1981, entitled "In the Matter
3 of the Hearing of Claimant Mary and Richard Cabral" and to further
4 order the Stanislaus County Department of Social Services to pay
5 petitioners Cabral retroactive federal AFDC-BHI (Aid to Families
6 with Dependent Children - Boarding Homes and Institutions) foster
7 care benefits on behalf of petitioners Noel Farias, Cynthia
8 Farias, Elizabeth Farias and Jerry Farias for the period commencing
9 September 1, 1976 and continuing until each of the Farias
10 petitioners became or becomes ineligible for such benefits by
11 reason of age or departure from the Cabral home.

12 2. Immediately upon receipt of this writ issued on behalf of
13 petitioner Wydell Crutchfield pursuant to Section 1094.5 of the
14 Code of Civil Procedure to set aside your hearing decision of
15 Claimant Wydell Crutchfield" and to further order the Contra Costa
16 County Department of Social Services to pay petitioner Crutchfield
17 retroactive federal AFDC-BHI foster care benefits on behalf of
18 petitioners Larry Beale, William Beale, Richard Beale and Anthony
19 Beale for the period commencing January 1, 1978 and continuing
20 until January 1, 1980.

21 3. Immediately upon receipt of this writ issued on behalf of
22 petitioner Margaret Morris Ingram pursuant to Section 1094.5 of
23 the Code of Civil Procedure to set aside your hearing decision
24 adopted January 16, 1981 entitled "In the Matter of the Hearing of
25 claimant Margaret Morris Ingram" and to further order the Contra
26 Costa County Department of Social Services to pay petitioner

1 Ingram retroactive federal AFDC-BHI foster care benefits on behalf
2 of petitioners Mario McCain, Markell McCain and Antwen Somers for
3 the period commencing January 1, 1978 and continuing until January
4 1, 1980.

5 4. Immediately upon receipt of this writ issued on behalf of
6 petitioner Ruth Johnson pursuant to Section 1094.5 of the Code of
7 Civil Procedure to set aside your hearing decision adopted
8 February 20, 1981 entitled "In the Matter of the Hearing of
9 claimant Ruth Johnson" and to further order the Solano County
10 Department of Social Services to pay petitioner retroactive
11 federal AFDC-BHI foster care benefits on behalf of petitioners
12 Jerry Johnson and Machon Deen for the period commencing January 1,
13 1978 and continuing until January 1, 1980.

14 5. Immediately upon receipt of this writ issued pursuant to
15 Section 1085 of the Code of Civil Procedure on behalf of the class
16 as certified in paragraph 5 of the Judgment previously entered
17 herein:

18 (A) To pay retroactive federal AFDC-BHI foster care
19 benefits to foster parent members of the petitioner class on
20 behalf of foster children members of said class, calculated as the
21 difference between the federal AFDC-BHI foster care rate to which
22 they were entitled and the ordinary AFDC rate which they received,
23 for the period commencing February 1, 1978 and continuing until
24 each such petitioner foster parent began receiving federal AFDC-
25 BHI foster care benefits on behalf of his or her petitioner foster
26 children under the new state Miller v. Youakim regulations which

1 became effective January 7, 1980 or until each petitioner foster
2 child became ineligible for said benefits by reason of age or
3 removal from the foster home, whichever occurred first.

4 (B) To promptly promulgate regulations and instructions
5 to their agents in county Departments of Social Services/Welfare
6 Departments to implement the specific terms of this judgment.
7 These regulations shall include procedures for determining class
8 membership and eligibility for benefits in cases in which the case
9 file or other documentary evidence necessary for determining
10 eligibility has been lost or destroyed or is otherwise unavail-
11 able. Petitioners and their counsel shall have the right to
12 review and comment on these regulations in draft form.

13 (C) To instruct their agents in each county to perform
14 the following acts for a fifteen (15) month period commencing with
15 the effective date of the regulations specified in Paragraph 5(B)
16 above:

- 17 (1) to review each open AFDC case at the recipient's
18 annual re-evaluation and each open AFDC-Foster Care
19 case at the recipient's semi-annual review to
20 determine the recipient's potential membership in
21 the class described in paragraph 5 of the Judgment
22 previously entered herein;
- 23 (2) to review each AFDC case which opens or closes to
24 determine whether the recipient or applicant is a
25 potential class member herein;
- 26 (3) to inform each recipient of AFDC who is identified

- 1 (5) to accept and process all applications for retro-
2 active benefits under this judgment received prior
3 to the close of the fifteen month period commencing
4 with the effective date of the regulations specified
5 in paragraph 5(B) above;
- 6 (6) to issue a Notice of Action granting or denying
7 retroactive benefits within 60 days of the comple-
8 tion of an application. Said Notice of Action shall
9 inform applicants whose claims are denied in whole
10 or in part of their right to seek review by request-
11 ing a fair hearing under Welfare and Institutions
12 Code Section 10950 et seq.;
- 13 (7) to issue payment of retroactive benefits under this
14 judgment within 30 days of the date a claim is
15 granted;
- 16 (8) to process applications at the end of the fifteen
17 month period by or on behalf of a foster child where
18 the former foster parent who may be a class member
19 cannot be found pursuant to paragraph 5(C)(3)(c) and
20 has not filed a claim, and to make retroactive
21 payment where claims are granted
- 22 (a) to the foster child if the child is 18 or over;
23 or
24 (b) to the irrevocable trust specified in 5(I) below
25 if the child is under 18;
26

1 (9) to treat any retroactive payments received pursuant
2 to this judgment as underpayments, not countable as
3 income or resources, in computing current public
4 assistance grants, if any, or in determining
5 eligibility for other public assistance benefits,
6 for the month in which the payment is received and
7 for the following month.

8 (D) To prepare bi-lingual English-Spanish posters and
9 flyers informing class members of their entitlement to retroactive
10 federal AFDC-BHI foster care benefits under this settlement and to
11 distribute said posters and flyers

12 (1) to each county Department of Social Services/
13 Welfare Department in California with instructions
14 that the poster be displayed in prominent locations
15 and the flyers distributed for a fifteen month
16 period commencing with the effective date of the
17 regulations specified in paragraph 5(B) above; and

18 (2) to each legal services office in California listed
19 in Appendix A to the Settlement Agreement and each
20 foster parent or foster care advocacy organization
21 listed in Appendix B to the Settlement Agreement
22 with a request to post and distribute for said
23 fifteen month period; and

24 (3) to all public services offices in California
25 (posters only), including, but not limited to,
26 Employment Development Department offices, Depart-

1 by the review procedures set out above of his or her
2 potential class membership and right to apply for
3 retroactive benefits and to supply each person
4 identified the application form and explanatory
5 flyer specified in paragraphs 5(D) and 5(G) below:

6 (a) at the face-to-face interview for the annual
7 and semi-annual reviews of open AFDC cases; or
8 (b) by mail within 15 days of review for opening and
9 closing cases where no face-to-face interview is
10 involved; or

11 (c) by mail within 15 days of the review where a
12 former foster parent with whom an AFDC child is
13 no longer residing appears from said reviews to
14 be a potential class member. The application
15 form and flyer mentioned above shall be sent to
16 the former foster parent's last known address.
17 Where the former foster parent cannot be located
18 after diligent efforts, said application form
19 and flyer shall be mailed to the foster child,
20 if an adult, or to the present custodian of the
21 child, if the child is a minor;

22 (4) to supply the application form and flyer specified
23 in paragraph 5(D) and 5(G) below to anyone who
24 inquires at county Department of Social Services/
25 Welfare offices concerning eligibility for benefits
26 under this judgment;

1 ment of Health offices, county hospitals, offices of
2 the Social Security Administration, and U.S. Post
3 Offices, with a request to post in a prominent
4 location for said fifteen month period.

5 (E) To pay the cost of mailing the posters and flyers
6 specified in 5(D) above.

7 (F) To issue a press release in English and Spanish
8 immediately following the effective date of the regulations
9 specified in 5(B) above, and to re-issue said press release 90
10 days later. Said press release shall inform potential class
11 members of their right to apply for retroactive federal AFDC-BHI
12 foster care benefits pursuant to this judgment and shall be issued
13 to the following media:

14 (1) all newspapers of general circulation in the State
15 of California with a request to publish in a
16 prominent location;

17 (2) all radio and television stations in the State of
18 California with a request that the information be
19 broadcast as a public service announcement.

20 (G) To design an application form for retroactive
21 federal AFDC-BHI foster care benefits pursuant to this judgment,
22 to give said form a name or number for ready identification, to
23 include the name or number of said form on the posters, flyers,
24 and press releases mentioned above, and to distribute said form to
25 their agents in county Departments of Social Services/Welfare
26 Departments throughout California.

1 (H) To allow petitioners and their counsel to review
2 the form and content of the posters, flyers, press releases, and
3 application form specified in 5(D), 5(F) and 5(G) above and to
4 make reasonable modifications in their form and content in
5 response to suggestions from petitioners and their counsel.

6 (I) To establish an irrevocable trust or trusts at the
7 end of the fifteenth month period commencing with the effective
8 date of the regulations specified in 5(B) above, for which the
9 State Department of Social Services shall be the trustor, the
10 minor children specified in 5(C)(8)(b) shall be the beneficiaries,
11 and a bank or other financial institution chosen by mutual agree-
12 ment of the parties shall be the trustee. Payment to each bene-
13 ficiary of his or her share of the trust principal and interest
14 shall be made on his or her eighteenth birthday. Any charge for
15 the management of the trust shall be paid out of the accrued
16 interest and then the corpus.

17 (J) To provide to petitioners' counsel quarterly
18 reports of the progress of implementation of this judgment for a
19 period of two years commencing with the effective date of the
20 regulations specified in 5(B), which shall include:

- 21 (1) a summary of each of the steps taken by respondents
22 during the previous three months to implement the
23 terms of this judgment; and,
24 (2) copies of information provided to respondents by
25 their agents in each county during the previous
26 three months, which shall include, at a minimum: the

1 number of applications filed, the number of claims
2 granted, the number of claims paid and the amount
3 paid.

4 (K) To provide petitioners' counsel with the following
5 information for claims by foster children, as specified in 5(C)(3)
6 above, at the end of the fifteen month period commencing after the
7 effective date of the regulations specified in 5(B) above:

- 8 (1) the number of applications filed and the number of
9 claims granted for minors and persons over 18;
10 (2) the number of claims paid and the amount of money
11 paid for persons over 18; and,
12 (3) the total amount of money payable to the trust for
13 minors.

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1 YOU ARE FURTHER COMMANDED to make and file a return to the
2 writs issued pursuant to paragraphs 1 through 5 herein on or
3 before February 28, 1983, setting forth what you have done
4 to comply.

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6 Dated: DEC 28 1982



CARL M. OLSEN
Clerk

By: Pat La Brack
Deputy Clerk

13 LET THE FOREGOING WRITS ISSUE.

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15 Dated: 12/28/82

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JUDGE OF THE SUPERIOR COURT
STUART R. DOLAN