

## DEPARTMENT OF BENEFIT PAYMENTS

October 9, 1974



## REFER TO:

ALL-COUNTY LETTER NO. 74-201

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: MC GONIGLE v. STATE OF CALIFORNIA

In All County Letters dated January 17, 1972 and April 5, 1974 you were instructed not to destroy AFDC records pertaining to the court case of McGonigle v. State of California.

On August 27, 1974 Los Angeles County Superior Court Judge Jack A. Crickard signed the Judgment in Maureen McGonigle v. State of California which sought retroactive benefits to the class of those persons who were disadvantaged by operation of former EAS § 42-311 in conjunction with W&IC §§ 11250(b) and 11254, the "90 day rule," which was declared invalid in Damico v. California.

As part of that Judgment, counties are required to send notices relating to retroactive benefits to all current AFDC recipients in both English and Spanish. They are also required to display a poster notice in English and Spanish in the public area of each county welfare office and district office.

The class of persons affected by this Judgment is defined as those persons who between February 2, 1967 and October 31, 1969, applied for AFDC in California but were denied assistance solely because there had not been parental separation of at least 90 days and no action for divorce, annulment, or separate maintenance had been filed.

Notices regarding these retroactive benefits are required to be mailed to each current AFDC family in California within 60 days of Entry of Judgment. Judgment was entered on September 6, 1974.

Compliance with this notice requirement will be accomplished by mailing the notices with the November 1 AFDC warrants.

The reverse side of the notice contains an application form in

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English and Spanish which has been designated as form "Temp 1001." A sufficient supply of this form must also be available in welfare offices for distribution to persons requesting it. County welfare departments are requested to duplicate the number of attached notices and application forms which they will require.

Each county welfare department is required to check its files against information supplied on applications received and to make a determination of eligibility for retroactive benefits within forty-five (45) days from the date the application is received by the department. Eligibility is to be determined under the regulations, except for the application of former EAS § 42-311, as they existed at the time of application during the period of February 2, 1967 through October 31, 1969. As indicated in the attached notice and application form, the applicants must submit the application form to the county in which they were denied aid by operation of the "90 day rule." A county in which an applicant is now living is not required to accept or forward an application form for retroactive benefits in a different county, but must assist an applicant by giving him the form to fill out.

Where eligibility appears conclusive from the application form and the county files, retroactive benefits shall be awarded based upon the grant which the family would have received but for the "90 day rule." Families who received general relief shall be presumed to have been financially eligible for purposes of awarding retroactive benefits. Retroactive payments will not be made for a period in excess of 90 days or the balance of the 90 days separation remaining after the date of application, even though an applicant did not reapply for AFDC after his application was denied because of the "90 day rule."

In cases where the county welfare departments finds the applicants eligible for retroactive benefits it shall promptly notify the applicant of eligibility, the amount of retroactive benefits awarded, and send a warrant in that amount to the applicant without delay. This notice must also inform the applicant that if he is dissatisfied with the amount awarded he may request a fair hearing.

In cases where the county welfare department finds the applicant not eligible for retroactive payments, it shall promptly inform the applicant of the reasons for its determination and the right to fair hearing.