

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



June 1, 1983

ALL-COUNTY LETTER NO. 83-47

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: GREEN v. OBLEDO

On March 5, 1981, the California Supreme Court issued an opinion in the case of Green v. Obledo. That opinion declared former EAS Section 44-113.231 (repealed effective November 10, 1981) in violation of the federal regulations then in effect because the state regulations failed to allow as deductions from earnings when computing the AFDC grant actual work-related expenses reasonably attributable to employment.

The Sacramento County Superior Court issued a judgment invalidating Section 44-113.241 to the extent this regulation disallowed both actual expenses of using a private automobile as transportation to and from work and other expenses reasonably attributable to employment. The court ordered retroactive benefits for recipients or former recipients who were disallowed such actual work-related expenses under Section 44-113.241. The time period for retroactive benefits under the Superior Court order is January 1, 1974 through November 9, 1981. The Department is currently developing regulations to implement the award of retroactive benefits.

Since the order invalidating Section 44-113.241, it has been the policy of the Department that when computing an overpayment which may have occurred during the time Section 44-133.241 was in effect, the grant to which a recipient was entitled was to be computed using that regulation. A recipient's entitlement to retroactive benefits was to be determined through the process provided in the regulations implementing the award of retroactive benefits once they became effective. This approach was taken because the Department had not yet developed the policies necessary to determine actual work-related expenses reasonably attributable to employment.

However, the Sacramento Superior Court ruled on January 27, 1983, that the policy of the Department to allow computation of overpayments under the regulation invalidated by the court constituted noncompliance with the court's previous order.

You are instructed to comply with the court's order concerning computation of overpayments by allowing actual work-related expenses reasonably attributable to employment. The following procedures are effective immediately and are to be used when computing the amount of an overpayment in the cases described below. Detailed instructions are attached (Attachment I).

Potentially affected cases are those in which the overpayment occurred between January 1974 and November 1981 and earned income was received in a month(s) when the overpayment occurred.

When an overpayment has been discovered for a potentially affected case, the county must advise the recipient or former recipient in writing of the following:

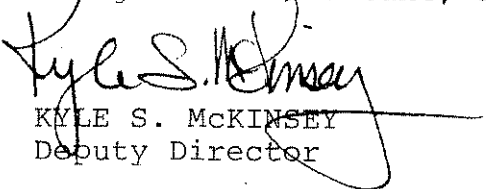
- An overpayment has been discovered in the case.
- The month/year or months/year in which the overpayment occurred must be addressed.
- Because of a court case, actual work-related expenses can be considered when the overpayment is computed.
- In order for the actual work-related expenses (e.g., car payment, car insurance) to be considered, additional information and proof of expenses, if reasonably available, is necessary.
- The information sheet to be used by the recipient or former recipient to report the additional information must be attached or information included as to how to obtain the information sheet. Attachment II is provided for your use in developing a form to obtain information on actual work-related costs. Counties may modify the questions or add questions if necessary upon SDSS approval. The recipient or former recipient must sign the form.
- The timeframe for submitting the required information and documentation must be listed. The timeframe must be at least 30 days.

If the information is not received by the date set by the county, the county will compute the overpayment without the application of actual work-related expenses; instead, the provisions of former EAS 44-113.241 will be applied.

If the recipient submits the required information and adequate documentation within the required timeframe, the overpayment will be computed using allowable actual work-related expenses (see Attachment I for the method of computation). The Notice of Action (NOA) sent the recipient explaining the amount of the overpayment must state that the overpayment was computed using actual work-related expenses and list the amount of work-related expenses allowed, those disallowed and why disallowed; e.g., cost of car insurance not allowed because proof of the expense was not provided and good reason did not exist for lack of verification.

The order in Green requires that statistics be collected regarding the number of claims filed, those allowed and disallowed and total dollars paid. Counties are to report this information on the attached form (Attachment III) and submit the information to the State Department of Social Services (SDSS) along with other information which will be required when the retroactive regulations implementing the Green order become effective. It is anticipated that the retroactive regulations will become effective in October 1983.

If there are questions, please contact your AFDC Program Operations Management Consultant, at (916) 445-4458.



KYLE S. MCKINSEY
Deputy Director

Attachments