

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



January 3, 1986

ALL-COUNTY LETTER NO. 86-04

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: SIMON v. McMAHON

REFERENCE: ACIN NO. I-84-85 AND I-99-85 (MPP 40-118.11 and .12, 42-213.2q,
44-133.31 44-205.41 AND 44-205.42)

In ACIN No. I-84-85 you were informed that on October 17, 1985, the California Supreme Court issued an order in the case of Simon v. McMahon. The order enjoins the Department from enforcing the above-cited regulations. These regulations require the consideration of income and/or property of potentially eligible children in determining AFDC eligibility and grant amount regardless of whether such income and/or property belongs only to a particular child (e.g., Social Security benefits, child support, earnings, etc.). ACIN No. I-84-85 also suggested that the counties begin flagging the affected cases effective October 17, 1985.

Originally it was assumed that the only affected cases would be those that include related children with restricted income and/or property only. It is now clarified that the affected cases must include related children with any income and/or property.

The purpose of this letter is to provide you with specific instructions and materials necessary to implement the terms of the Simon injunction. The implementation will be effective beginning with the November 1, 1985 grant for ongoing cases and October 17, 1985 or later for cases that were denied or terminated or that came on aid on or after October 17, 1985.

The attachment specifies actions which the counties must take in order to implement the terms of the Simon injunction. The counties must identify and notify all cases in which aid has been reduced, denied, terminated or granted at the reduced amount due to the effect of the challenged regulations cited above. The affected families must first be given the option of excluding children with any income and/or property from the assistance unit. If the family exercises this option, its AFDC grant shall be adjusted or restored without the application of the challenged regulations.

In addition to the detailed implementing instructions, the following implementation materials are attached:

- 1) A reproducible copy of the Informing Notice to affected cases (in English and Spanish)
- 2) A reproducible copy of the Notices of Action in English (Spanish version to come on approximately January 21, 1986)
- 3) A reproducible copy of the NA Back 5 to be used with the Notices of Action
- 4) Instructions on Completing Notices of Action
- 5) Statistical Reporting form
- 6) Claiming Instructions

As explained in the attached claiming instructions, Simon cases will all be claimed nonfederal as this court case is challenging state law and constitution. We are, however, asking the counties to flag or otherwise identify those Simon cases that are also potential Creaton cases. In the case of Creaton v. Heckler, the plaintiffs are challenging federal law and regulations regarding the mandatory inclusion of related children with Social Security (i.e., OASDI) benefits. In the event the U.S. Department of Health and Human Services and this Department lose in Creaton, such identification would enable us to claim federal financial participation (FFP) for those Simon cases that are also Creaton cases.

For federal AFDC Quality Control (QC) purposes Simon cases will be treated according to the case status in the QC review month. Those cases for which the Simon requirements had been implemented as of the review month will be dropped from the sample since these Simon cases will be claimed nonfederal. Those cases for which the Simon requirements had not been implemented as of the QC review month will remain in the sample and will be reviewed in accordance with the regulations that were in effect prior to the implementation of the Simon injunction.

If you have any questions regarding the implementation instructions, informing notice or Notices of Action, please contact Ms. Margaret Brown of the AFDC Program Development Bureau at (916) 322-5387 or (ATSS) 492-5387. If you have any questions regarding the statistical report form, please contact Mr. Levy St. Mary of the Statistical Services Branch at (916) 322-5462 or (ATSS) 492-5462. If you have any questions regarding the claiming instructions, please contact Stephanie Davis of the Fiscal Policy and Procedures Bureau at (916) 445-7046 or (ATSS) 485-7046.

Robert Horel

ROBERT A. HOREL
Deputy Director

Attachments

cc: CWDA