

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

June 9, 1988

ALL COUNTY LETTER NO. 88-57

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: IMPLEMENTATION OF PRELIMINARY INJUNCTION IN THE WELFARE RECIPIENT'S LEAGUE V. WOODS COURT CASE.

REFERENCE: ACL 82-15, ACL 84-15, ACIN I-40-88:

On February 4, 1982, the Superior Court of the County of Sacramento issued a preliminary injunction in the Welfare Recipient's League (WRL) v. Woods court case enjoining the Department from applying current immediate need regulations to the extent that the regulations require as a condition of eligibility for "immediate need" that an applicant be in an "emergency situation" and have less than \$100 in income or liquid resources.

On January 29, 1988, the State Court of Appeal upheld the Superior Court decision finding the current immediate need regulations (EAS 40-129.2) to be invalid and the preexisting regulation to be in full force and effect. On April 21, 1988, the California State Supreme Court denied the state's petition for review of the appellate court's decision and, therefore, the preliminary injunction is now in effect (copy attached).

In compliance with the injunction, the counties are instructed to cease applying regulations at EAS 40-129.2 effective the date of the order, April 21, 1988. The counties are also instructed to determine immediate need based upon the definition provided in the pre-1978 regulation at EAS 40-129.1.

PRE-1978 DEFINITION OF IMMEDIATE NEED:

The definition of immediate need existing prior to the 1978 revision is reproduced below and is again in effect as of April 21, 1988. Although the complete text of EAS 40-129.1 is being provided, the court order is specifically concerned with the definition of immediate need contained in the first paragraph. The remaining subsections of the existing regulation at 40-129.2, i.e., .21, .22, .23, are not affected by the order.

40-129

1. Definition

- .1 "Immediate need" exists when the applicant's current income and/or liquid resources are insufficient to meet his expenses for food, clothing, shelter, medical care or other nondeferrable needs during the period of evaluation.

- .11 For purposes of this section "liquid resources" means resources which are immediately available and reasonably convertible to cash before the first aid payment would normally be received. These may include cash, negotiable securities, and similar resources but do not include cash surrender value of insurance, trust deeds, household items and furnishings, personal effects, motor vehicles, or real property.
- .12 The county shall always be alert to situations of immediate need at the time of application whether by letter, telephone, or in person. The county shall inquire of the applicant as to his immediate situation and the means he has for meeting current necessities and obligations for living costs in order to determine whether he needs immediate aid. A similar determination shall be made for a medically needy person for whom a change in status to a cash grant recipient is requested or is otherwise indicated.
- .13 Individuals presently receiving aid under any of the categorical aids are not considered to be in immediate need.

In its ruling, the Court clarified that eligibility for immediate need includes:

"applicants who have insufficient current income and/or resources to pay rent or mortgage payments due and owing, or utility bills due and owing whether or not they have received a notice of eviction, notice of default, or notice of termination of utility service".

The Court provided additional direction, stating that for the applicant to be eligible for an immediate need payment, the county must be unable to provide the needed item or service within the required time to make an immediate need payment. Thus, if the county is able to directly provide for or defer the need during the period of application, the applicant would not be eligible for an immediate need payment and the immediate need request must be denied.

IMPLEMENTATION OF THE ORDER:

The preliminary injunction prohibits the counties from denying immediate need to applicants who are otherwise eligible if the applicant meets the eligibility conditions set out above. The Department is required to implement the order immediately upon the Supreme Court's denial of its petition for review (April 21, 1988). Therefore, the counties are instructed to apply the court ordered definition to all currently pending applications. Current applicants for AFDC whose immediate need request has already been denied, but who would be eligible for an immediate need payment under the court-ordered definition, shall be authorized immediate need effective the date of denial.

IMMEDIATE NEED SCREENING:

Due to the now obsolete definition of immediate need on the CA 1, the attached reproducible notice (in English and the five standard languages) must be provided to all applicants. The notice (Temp 1744) explains the changes to the immediate need rule and must be given to applicants at the time they are provided the CA 1.

In addition, counties must ensure that every applicant indicates whether or not he/she is applying for immediate need by checking the appropriate yes/no box on the CA 1. Additional instructions regarding statistical reporting requirements on the implementation of WRL will be issued in the near future.

The Department is not planning to revise the CA 1 to reflect the preliminary injunction in WRL at this time. Therefore, counties are instructed to continue to use the CA 1 (11-85 revision or the pilot version) in conjunction with the recipient notice until the necessary changes to the CA 1 are made.

NOA messages in the Turner handbook language and instructions are attached. Counties are instructed to transfer the above referenced messages to the appropriate forms.

If you have any questions, please contact Ms. Kay Silva at (916) 324-2725.



ROBERT A. HOREL
Deputy Director

Attachment