

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



November 1, 1989

ALL COUNTY LETTER NO. 89-96

FSD LETTER NO. 89-28

TO: ALL COUNTY WELFARE DIRECTORS
ALL DISTRICT ATTORNEYS
ALL TITLE IV-D AGENCIES

SUBJECT: SAHI V. McMAHON COURT CASE/ESTABLISHING CHILD SUPPORT COOPERATION

REFERENCE: MPP 43-107.2

On April 23, 1986, a lawsuit, Sahi v. McMahon, was filed in the Superior Court of Siskiyou County. The plaintiffs asked the Court to enjoin the State and Counties from sanctioning caretaker relatives for failing to cooperate in providing complete and accurate information about absent parent(s) without first providing the relative with the opportunity to attest, under penalty of perjury, that the information provided was complete and accurate. If the caretaker relative has provided all known information related to the absent parent, and lacks any further information, Federal regulations specify that this part of the cooperation requirement can be met with a statement signed under penalty of perjury attesting that the applicant/recipient has provided all pertinent information.

The State Department of Social Services has determined that no applicant/recipient can be sanctioned for failure to provide essential information without first being offered the opportunity to establish cooperation by the use of the Attestation Statement (CS 870). Therefore, if the Family Support Division (FSD) makes the determination that additional information is required and the applicant/recipient is unable to provide the information, before the FSD can recommend that he/she be determined to be not cooperating the applicant/recipient must be offered the opportunity to sign the Attestation Statement under penalty of perjury.

After the applicant/recipient completes and signs the attestation, the individual is considered to have cooperated with the FSD in meeting the requirement to provide information requested on the absent parent. However, any other requirements relevant to the determination of paternity or the securing of child support must continue to be met. The attestation establishes cooperation with the FSD and does not preclude the FSD from undertaking further investigation. For example, although the applicant may have attested to the lack of the absent parent's last known address, the applicant may be called upon to participate in court proceedings, sign papers or take other actions as the case warrants.

The FSD may not determine the attestation to be false nor can the County Welfare Department deny aid unless independent evidence shows the attestation is inaccurate or a determination is made that the applicant/recipient has given inconsistent information for which he/she has provided no reasonable explanation. A determination for concluding that the attestation is false must not be solely based upon:

1. The applicant's failure to provide information which he/she may be expected to have;
2. A suspicion or subjective belief that the applicant attested falsely; or
3. A dissatisfaction with the demeanor of the applicant.

Signed Attestation Forms (CS 870) shall be retained in the client's records by the FSD.

Effective immediately, a finding of noncooperation can not be made for those individuals who have not completed the IV-A/IV-D intake process before they are given the opportunity to attest under penalty of perjury that they have no further information about the absent parent and the information already provided is complete and accurate.

Additionally, County Welfare Departments are to identify individuals who have been sanctioned for failure to provide information and continue to be associated with an assistance unit. Either of the following procedures may be used to identify these individuals:

1. A search of the County's active AFDC case files either manually or by computer; or
2. By identification during the annual redetermination process.

Sanctioned individuals may also contact the CWD for purposes of self-identification at any point prior to being contacted by the County.

Sanctioned individuals identified by the process above will be referred to the FSD and will be given an opportunity to establish cooperation necessary to remove the sanction. This opportunity must be provided no later than the next redetermination after receipt of this letter. Before the sanctioned individual is offered the Attestation Statement by the FSD, the County will require that he/she fill out a new CA 2.1 Questionnaire. Upon establishing cooperation with FSD, affected individuals must be added to the assistance unit effective the date of this ACL, and issued a corrective underpayment.

Counties will be required to certify compliance with this ACL upon completion of the identification and recertification process. The certification form and instructions for its completion will be forwarded under separate cover. Counties are to flag all cases in which a corrective payment is being issued. CWDs are being instructed to flag cases during this process so that in the event the court requests verification that counties have complied with instructions in this ACL, affected cases will be easily retrieved.

Attached is a reproducible copy of the Attestation Statement, Form (CS 870), which shall be made available to AFDC individuals by FSD staff at the point when the issue of cooperation must be resolved.

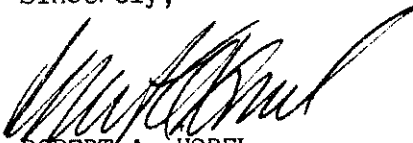
The CA 2.1 Notice and Agreement will be modified to inform the applicant/recipient of the opportunity to establish cooperation necessary for AFDC eligibility. You will be informed when the revised form becomes available. In the meantime, Counties must inform each applicant given a current version of the CA 2.1 Notice and Agreement of the availability of the Attestation Statement.

The Attestation Statement, Form (CS 870), will be available for order on approximately December 1, 1989, by completing a GEN 727B and sending it to:

SDSS Warehouse
P.O. Box 22429
Sacramento, CA 95822

Until the pertinent regulations are amended this ACL/FSD Letter will remain in effect. Child Support related questions about this Letter should be directed to Ms. Nancy Alder of the Child Support Management Bureau at (916) 445-9453. AFDC related questions should be directed to Mr. John Honeycutt at (916) 445-1131.

Sincerely,



ROBERT A. HOREL
Deputy Director

Attachment

ATTESTATION STATEMENT

ATTESTATION TO LACK OF INFORMATION ABOUT THE PARENT(S) OF

I, _____ swear and affirm that I have no additional knowledge of the following information about the parent of the child(ren) named in this attestation:

- ☐ 1. I do not know the identity of the parent of the child(ren) because: (state reason(s))
- ☐ 2. I have named _____ as the parent of the child(ren).
However, I do not know the parent(s)' residence and/or employer because: (state reason(s))
- ☐ 3. I do not have or know any other information that might assist the District Attorney in identifying or locating the parent of the child(ren), because: (state reason(s) if different)

In signing this attestation, I swear and affirm that all the information I have provided is true, correct and complete. I understand that Federal and State law provide for penalties of fine and/or imprisonment or denial of Public Assistance if I do not tell the truth when applying for Public Assistance or if I conceal or fail to disclose facts regarding the identity, whereabouts or other information concerning the child(ren)'s parent.

Signed:

Name

Date Signed

Witnessed by:

Family Support Officer

Date Signed