

## DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



April 17, 1991

ALL COUNTY LETTER NO. 91-34

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: PROSPECTIVE APPLICATION OF THE CHILD/SPOUSAL  
SUPPORT NONCOOPERATION SANCTION FOR AFDC RECIPIENTS  
WHO RETAIN DIRECT SUPPORT

REFERENCE: MPP 43-107, 43.107.47  
ACL 84-65

The purpose of this letter is to clarify policy provided to counties on the issue of sanctions for retention of direct child/spousal support payments.

County welfare departments and State administrative law judges have called to our attention the fact that there is confusion regarding whether or not it is appropriate to retroactively apply a sanction in cases where a county discovers that support payments were received and retained during past months. We have followed up with the Federal Government and received clarification that the sanction, when applied for noncooperation in retaining support payments, can only be applied on a prospective basis and only after a good cause determination is made.

Each applicant or recipient of AFDC is required, with certain exceptions, to cooperate in identifying and locating absent parents, in establishing paternity, and in obtaining support payments -- as specified in MPP 43-107.1 and .2. By completing the Form CA 2.1 Notice and Agreement, the applicant agrees to these requirements or requests an exemption from the requirements (good cause).

Specific actions relating to cooperation are described in MPP 43-107.2. The applicant or recipient must, within his/her capabilities, take whichever of those actions are requested by the County Welfare Department (CWD) or by the Family Support Division (FSD) of the District Attorney's Office. Among the actions listed under this section is the requirement that the client cooperate in turning over direct support (43-107.26).

When it has been determined and verified that the applicant or recipient has refused or failed to cooperate within the meaning of MPP 43-107.1 and .2 without good cause, he/she shall be ineligible for aid (MPP 43-107.47), and the CWD shall arrange for protective payments for the aided members of the assistance unit (MPP 44-309).

To implement the sanction for retained support payments, the CWD first determines that the facts require the sanction; then, as soon as administratively feasible, it shall provide timely and adequate notice of the sanction to the assistance unit. The sanction shall be applied prospectively from the date that the CWD makes its decision to sanction the noncooperating person.

As stated at the beginning of this letter, the sanction shall not be applied retroactively for refusal or failure to cooperate in turning over direct support.

Even though sanctions for retaining of direct support payments can only be applied prospectively, retained direct support payments are countable unearned income. This income should be treated as described in MPP 43-201.31. This section provides for allowing the child support disregard (up to \$50) when appropriate and also provides for counting the remainder of the retained direct support as unearned income in the month received.

When this income has not been included in the original aid payment computation, it results in an overpayment. The overpayment is to be recovered under normal overpayment rules. The support payment, even though improperly retained, is the basis for an (up to) \$50 disregard provided under MPP 43-201.31. Therefore, when computing the amount of the overpayment, the amount of countable unearned income (the direct support payment) shall first be reduced by the amount of the appropriate disregard.

#### EXAMPLE

Mother and 2 children are on aid. The mother has been receiving, but not reporting, direct child support of \$200 each month from the absent father beginning in March and continuing through June. All support was received in the month due. The CWD has discovered the unreported income from reports received from the FSD.

Upon receiving this information from the FSD in early June, the CWD contacted the recipient and reminded her that she must report such income on her Monthly Eligibility Report and turn over direct support to the FSD whenever such support is received. The mother agreed to report the income in the future but refused to turn over such future income to the county. The CWD, after examining the facts and after discussion with the mother, determined on June 22 that the mother did not have good cause for such refusal and that the noncooperation sanction should be implemented.

On June 25 the CWD sent a Notice of Action changing the amount of the grant for July. The notice included information that the mother is ineligible effective July 1 and that the July 15 warrant was being changed to avoid an overpayment for the month of July. The July 1 warrant was not affected by this change because there was insufficient time for timely notice before that date.

The computation showed that additional income of \$150 is being retrospectively budgeted from May for the July payment. The income is the \$200 child support received in May less the \$50 child support disregard.

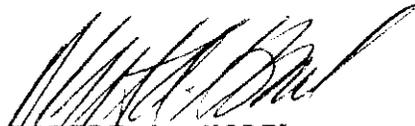
The family is eligible for a July aid payment as follows:

MAP for the 2 children	\$560
Less countable income	150
Aid payment	<u>\$410</u>

The July 1 warrant was issued for \$347 (MAP for 3, \$694, for 1/2 month). The July 15 warrant was issued for \$63 (\$410 - \$347).

In early July, the CWD computed an overpayment for the payment months of May and June caused by the unreported (and retrospectively budgeted) \$200 of direct support received by the family in each of March and April. The county allowed a \$50 disregard for each of these 2 months, giving a total overpayment of \$300. An appropriate Notice of Action was sent informing the client of the \$300 overpayment and reducing the amount of the monthly aid payment to compensate for an overpayment grant adjustment included in the grant computation.

If you have questions on the child support noncooperation sanction, please call Dennis Ragasa of the Welfare Policy Implementation Bureau at (916) 324-2658 or ATSS (8) 454-2658. If you have questions about the computation of overpayments, please call Karen Maderos of the same Bureau at (916) 324-2009 or ATSS (8) 454-2009.

  
ROBERT A. HOREL  
Deputy Director

cc: CWDA