

DEPARTMENT OF SOCIAL SERVICES

4 P Street, Sacramento, CA 95814



April 17, 1984

ALL COUNTY INFORMATION NOTICE NO. 1-37-84

TO: All County Welfare Directors

SUBJECT: IN-HOME SUPPORTIVE SERVICES; COMMUNITY SERVICES CENTER FOR THE DISABLED VS. WOODS AND MILLER VS. WOODS

The purpose of this letter is to inform you of the decision issued on October 21, 1983 by the Court of Appeal, Fourth Appellate District, in the consolidated case of Community Services Center for the Disabled vs. Woods and Miller vs. Woods.

The main issue in the suit was whether DSS abused its discretion in adopting MPP 30-463.233c (now MPP 30-763.233c). MPP 30-763.233c provides that the payment for protective supervision is not necessary when a housemate is in the home. Protective supervision is observing recipient behavior in order to safeguard the recipient against injury, hazard or accident (MPP 30-757.17).

The trial court (San Diego Superior Court) found that MPP 30-763.233c was invalid as to the named plaintiffs only. The Court of Appeal reversed the trial court's decision with directions to certify the class action.

DSS is processing emergency regulations which delete MPP 30-763.233c and which require counties to identify and assess all currently eligible IHSS recipients in need of protective supervision who were not granted such service because of the presence of a housemate. We anticipate filing the regulations in the month of May.

Following legislative approval of increased funding, supplemental funds will be allocated for administrative expenses as well as program costs incurred in FY 83/84. Since these administrative funds are for FY 83/84 only, it is important that all reassessments be completed by June 30, 1984. The proposed FY 84/85 IHSS appropriation includes program costs for protective supervision.

The issue of retroactivity is in negotiation. Counties should avoid destroying any case files, applications, denials or other records pertinent to cases which may be eligible for retroactive payments (i.e., recipients with housemates). This includes material which might otherwise be destroyed based on the normal three-year retention requirement (MPP 23-353). The Department will transmit instructions for specific retroactive payments as soon as possible.

Proposed regulations are attached for your reference. Advance copies of the final regulations will be distributed when filed with the Secretary of State.

If there are questions regarding the implementation of the regulations, please contact your Adult and Family Services Operations Bureau consultant at (916) 322-6671.

Sincerely,



LOREN D. SUTER
Deputy Director
Adult and Family Services Division

Attachment

cc: CWDA

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.6 Community Service Center For the Disabled vs. Woods and Miller vs. Woods

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.61 Background

On October 21, 1983 the Court of Appeal, Fourth Appellate District, issued a decision in the consolidated case of Community Service Center For the Disabled vs. Woods and Miller vs. Woods. The court declared invalid MPP 30-463.233c (now 30-763.233c) which provided that no need for protective supervision may be assessed when a housemate is in the home.

.62 Case Review Procedures

.621 The county shall identify no later than June 30, 1984 all open IHSS cases with recipients living with a housemate where a need for protective supervision as defined in 30-757.17 may exist.

.622 The county shall determine whether a need for protective supervision exists through recipient contact unless the case record provides evidence to indicate no need exists.

.63 Authorization and Notification

.631 The county shall complete a new Needs Assessment form to authorize protective supervision.

.632 The county shall send a Notice of Action to all affected recipients which shall state: "Hours for protective supervision are authorized based on the Community Service Center For the Disabled vs. Woods court action."

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.64 The county should maintain a listing of those recipients who were previously not granted protective supervision because of the presence of a housemate. The listing will be used in the event retroactive payments are later ordered by the court.