

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814

**REASON FOR THIS TRANSMITTAL**

- State Law Change
 Federal Law or Regulation Change
 Court Order
 Clarification Requested by One or More Counties
 Initiated by CDSS

March 5, 2002

ALL-COUNTY LETTER NO.:02-26

TO: ALL COUNTY WELFARE DIRECTORS ALL
SPECIAL CIRCUMSTANCE COORDINATORS

SUBJECT: **SPECIAL CIRCUMSTANCES PROGRAM APPLICATION, NOTICE OF
INTENDED ACTION, AND RIGHT TO A STATE HEARING REQUIREMENTS**

REFERENCE: WELFARE AND INSTITUTIONS CODE SECTIONS 12550 AND 12601

The purpose of this All-County Letter (ACL) is to notify counties that they are no longer required to accept applications or send Notices of Intended Action (NOAs) allowing Special Circumstances Program (SCP) applicants to request state hearings if administrative and benefit funding for the program has been exhausted in a fiscal year. Therefore, effective immediately, we are rescinding ACL 91-03 and ACL 98-95.

BACKGROUND

The SCP, set forth in Chapter 4 (commencing with Section 12500) of Part 3 of Division 9 of the Welfare and Institutions Code (WIC), is a state-funded, California Department of Social Services (CDSS) supervised, county-administered program that provides payments to recipients of the Supplemental Security Income/State Supplementary Payment program, the In-Home Supportive Services program, and the Cash Assistance Program for Immigrants. Payment is available under the SCP to recipients in specified "special circumstances," which are circumstances that are not common to all recipients and that arise out of a need for certain goods or services, and physical infirmities or other conditions peculiar, on a nonrecurring basis, to a recipient's situation (Sec. 12550 (a), WIC).

Funding for the SCP is explicitly limited by WIC Section 12601 to the amount provided by the annual State Budget Act. Therefore, if funding provided by the Budget Act is exhausted in a given fiscal year, the program is, in essence, suspended by operation of law until further appropriation by the Legislature. In other words, if funding for the SCP is exhausted in a given fiscal year, there is no legal requirement for the program to continue because the program becomes inoperative by operation of law unless and until funding is made available in the next Budget Act. Because each county receives an individual funding allocation annually, the exhaustion of SCP funds is determined on a county-by-county basis, rather than a statewide basis.

Procedural due process requirements, as manifested by the state hearing requirement, are meaningless where there is essentially no program in existence from which to seek payment. The right to a state hearing is intended to ensure that an individual is not wrongfully deprived of assistance and assumes the existence of an operating benefits program.

Counties shall establish a verifiable date certain for suspension of the SCP due to exhaustion of funds, after which date the county should no longer accept applications.

Counties shall post a public notice informing potential applicants of the suspension of the SCP due to lack of program funding. Each county shall also inform any person who wishes to apply for the program after the program has been suspended that applications are no longer being accepted and remind the applicant that they may reapply on July 1st for the SCP if their need still exists.

Processing should continue on all applications where county action granting or denying applications was taken prior to the verifiable date of program suspension. Applications that were granted or denied prior to program suspension should not be affected by the suspension of the program.

If you have any questions, please contact the Policy & Quality Branch at (916) 651-5362.

Sincerely,

Original Document Signed By Donna L. Mandelstam on 3/5/02

DONNA L. MANDELSTAM
Deputy Director
Disability and Adult Programs Division