

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



May 21, 2003

ALL COUNTY LETTER NO. 03-29

TO: ALL COUNTY WELFARE DIRECTORS
 ALL PUBLIC ADOPTION AGENCIES
 ALL CDSS ADOPTIONS
 DISTRICT OFFICES

REASON FOR THIS TRANSMITTAL

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

**SUBJECT: ADOPTION ASSISTANCE PROGRAM ELIGIBILITY AND RECEIPT OF,
 OR ELIGIBILITY FOR, SUPPLEMENTAL SECURITY INCOME**

The purpose of this All County Letter (ACL) is to clarify eligibility for benefits under the Adoption Assistance Program (AAP). On April 10, 2003, the court, in the case of Barbara and Tripp Curtis v. Rita Saenz (San Francisco County Superior Court, Case No. CPF-02-501683) ordered the California Department of Social Services (CDSS) to conform its policies to federal law by eliminating the application of Welfare and Institutions Code (W&IC) Section 16120(c) to AAP eligible children who meet eligibility requirements for federal Supplemental Security Income (SSI) benefits.

This ACL addresses the manner in which AAP is administered in California with respect to AAP eligible children who, at the time the adoption petition is filed, have been determined by the Social Security Administration (SSA) to be eligible to receive SSI benefits. The revised policy is consistent with the federal Administration on Children, Youth and Families, Children's Bureau Policy Announcement No. (ACYF-CB-PA) 01-01, issued January 23, 2001, by the United States Department of Health and Human Services.

Counties and CDSS adoption district offices are hereby directed to cease enforcing the requirements of W&IC Section 16120(c) for children who have been determined to be AAP eligible and also meet the eligibility requirements for SSI benefits at the time the adoption petition is filed.

If a child has not been determined to be SSI eligible, W&IC Section 16120(c) requires the child to be the subject of an agency adoption, as defined under Family Code Section 8506, and

- (1) Under the supervision of a county welfare department as the subject of a legal guardianship or a juvenile court dependency,
- (2) Relinquished for adoption to a licensed California private or public adoption agency, or to CDSS, and would have otherwise been at risk of dependency as certified by the responsible public child welfare agency, or

(3) Committed to CDSS pursuant to Family Code Section 8805 or 8918.

To reiterate, AAP eligible children who have been determined by SSA to be eligible for SSI benefits by the time the adoption petition is filed are excluded from the requirements of W&IC Section 16120(c). These children do not need to be the subject of an agency adoption petition, nor do they need to be a juvenile court dependent or be certified as otherwise being "at risk of dependency." According to ACYF-CB-PA-01-01, "there are no additional criteria that a child must meet to be eligible for Title IV-E adoption assistance when eligibility is based on a special needs child meeting SSI requirements. Specifically, how a child is removed from his or her home or whether the state has responsibility for the child's placement is irrelevant in this situation."

A child who is relinquished for adoption to a licensed California private or public adoption agency, or to CDSS, or who is adopted through the independent adoption process is eligible for AAP benefits if, at the time the adoption petition is filed, the child meets the requirements for Title XVI SSI benefits as determined by a designated SSA claims representative and appropriate documentation of the child's SSI eligibility is provided to the adoption agency and the child has been determined to be AAP eligible in accordance with the other provisions of W&IC Section 16120.

The CDSS will develop emergency regulations to reflect the revised policy and will propose legislation to amend W&IC Section 16120(c).

Counties and CDSS adoptions district offices should review cases in which AAP benefits were denied through the agency process and independent adoption cases processed from January 23, 2001, the effective date of ACYF-CB-PA-01-01, and reevaluate eligibility based upon the instructions in this letter.

If you have any questions regarding this matter, please contact the Funding and Transitional Youth Programs Bureau at (916) 657-1912.

Sincerely,

***Original Document
Signed By***

SYLVIA PIZZINI
Deputy Director
Children and Family Services Division

c: CWDA