

DEPARTMENT OF BENEFIT PAYMENTS



August 16, 1974

ALL-COUNTY LETTER NO. 74-166

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: WAITS v. SWOAP

REFERENCE:

On July 2, 1974, the California Supreme Court issued a decision in the case of Waits v. Swoap. In this decision, the Court affirmed a March 23, 1972 Alameda County Superior Court order which invalidated EAS § 44-115.611. The Waits' decision prohibits the Department from presuming that nonneedy caretaker relatives are making an in-kind contribution of housing and utilities to AFDC recipient children in their care. The decision requires that there be a determination of whether a nonneedy relative intends to make such a contribution. Further, it is now necessary to determine the actual value of any voluntary contribution which the caretaker relative wishes to make.

In order to implement the Supreme Court's decision, you should immediately cease to apply EAS § 44-115.61 in determining eligibility and grant amounts for all cases in which an AFDC recipient child is living with a nonneedy relative. We are currently in the process of preparing amended regulations which will provide for a determination of whether and in what amount nonneedy relatives wish to make voluntary contributions to AFDC recipient children in their care. These regulations will be forwarded to you shortly. Until such amended regulations are issued, no in-kind income due to shared housing and utilities shall be attributed to AFDC recipient children living with nonneedy caretaker relatives.

OBSOLETE

Superseded by ACU # 77-45
Issued 3-17-77

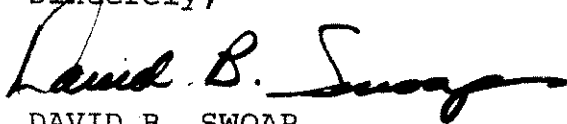
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Due to the Supreme Court's decision in Waits, it will also be necessary to provide for redetermination of eligibility and grant amounts for AFDC recipient children living with nonneedy relatives who have been affected by EAS § 44-115.611. We are developing the means to provide for these redeterminations, which shall include the entire period since October 1971. Further instructions will be forthcoming very shortly.

Sincerely,

A handwritten signature in cursive script that reads "David B. Swoap". The signature is written in dark ink and is positioned above the typed name and title.

DAVID B. SWOAP
Director

cc: CWDA

ALL COUNTY WELFARE DIRECTORS

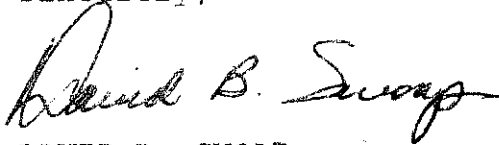
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For purposes of this Judgment, an application for retroactive benefits shall be treated as a current application for AFDC benefits in terms of notice of determination of eligibility and appeal rights.

Copies of the English and Spanish language notice posters will be sent to you around November 1, 1974, and a copy of each should be displayed in the public area of each county welfare office and district office through December 31, 1974.

Any questions regarding this letter should be directed to the AFDC Program Operations Bureau, telephone number (916) 445-4458.

Sincerely,

A handwritten signature in cursive script that reads "David B. Swoap". The signature is written in dark ink and is positioned above the typed name and title.

DAVID B. SWOAP
Director

cc: CWDA