

DEPARTMENT OF BENEFIT PAYMENTS

744 P Street
Sacramento, CA 95814



October 3, 1974

ALL-COUNTY LETTER NO. 74-199

TO: ALL COUNTY WELFARE DIRECTORS

OBSOLETE

SUBJECT: COOPER V. SWOAP

Superseded by ACL #77-15

REFERENCE:

Issued 3-17-77

On July 2, 1974, the California Supreme Court issued a decision in the case of Cooper v. Swoap. In this decision, the Court reversed a May 4, 1972 judgment of the Sacramento County Superior Court, and held that EAS § 44-115.8 was invalid. The Cooper decision held that the Department could not deduct in-kind income from an AFDC recipient based upon the value of housing and utilities shared with an adult aid recipient. Since the Cooper decision reversed an earlier Superior Court ruling, the Supreme Court remanded the case to the Superior Court for further proceedings consistent with its opinion. Therefore, it has been necessary to await these further proceedings before implementing the Supreme Court's decision.

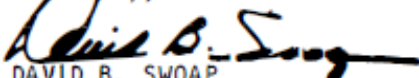
In order to expedite reconsideration of the Cooper case, the plaintiff's have sought and received a Temporary Restraining Order from the Superior Court. This order, dated September 27, 1974, provides that:

"...defendant David B. Swoap, Director, Department of Benefit Payments, State of California, his successors in office, agents, assigns, employees, and all persons acting by, through or under him, or subject to his supervision and control, or acting in concert with him, are hereby restrained from:

"Refusing and failing to immediately cease implementation of Eligibility and Assistance Standards § 44-115.8."

Accordingly, you should immediately cease to apply EAS § 44-115.8 in determining eligibility and grant amounts for all cases in which an AFDC recipient is living with an adult aid recipient. The Superior Court's order in the Cooper case is effective October 1, 1974. Therefore, it will be necessary to refund any monies deducted pursuant to EAS § 44-115.8 on or after that date. We will keep you advised of all future developments in the Cooper case.

Sincerely,


DAVID B. SWOAP
Director